

# CONSULTATION AND CO-OPERATION IN THE BRITISH COMMONWEALTH

A HANDBOOK ON THE METHODS AND  
PRACTICE OF COMMUNICATION AND  
CONSULTATION BETWEEN THE MEM-  
BERS OF THE BRITISH COMMONWEALTH  
OF NATIONS

*Compiled by*

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*With an Introduction by*

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ON THE

CONSTITUTIONAL DEVELOPMENT OF  
THE BRITISH EMPIRE IN REGARD TO  
THE DOMINIONS AND INDIA FROM

1887 TO 1933

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*TO*  
MY FATHER



## PREFACE

THIS Handbook was originally prepared in draft form for the purpose of the British Commonwealth Relations Conference Committee which met at the Royal Institute of International Affairs in July, 1932. That Committee made provision for the arrangements for the Conference which was held in Toronto in September, 1933, by invitation of the Canadian Institute of International Affairs. *Inter alia*, the Committee recommended that a revised edition of the draft Handbook be prepared as an essential background to the discussions at the Conference and that part of the Agenda of the Conference should be the adoption of a final edition. The Conference decided that the Handbook should be published, in view of its usefulness to a wider public than those taking part in the Conference, and it is accordingly being issued as a companion volume to the report on the work of the Conference, which, edited by Professor Arnold J. Toynbee, has been published under the title of *British Commonwealth Relations: Proceedings of the First Unofficial Conference held at Toronto, 11th to 21st September, 1933*.

It has been the object of the compiler to limit the material of the Handbook to statements of fact and quotations from official documents. Thus, while it attempts to set out the principles on which the several Governments of the British Commonwealth have agreed to co-operate and to give some description of the machinery by which they do so, it refrains from attempting to assess those principles or to pass judgement on the adequacy of that machinery.

The method of preparing the volume has been as follows: a first draft was compiled at Chatham House in 1932 and copies were circulated in the autumn of that year to authorities in Great Britain and in each Dominion, with a request that they would undertake the work of revision and amplification. In Canada this task was carried out with the co-operation of the Hon. Newton W. Rowell under the general editorship of Mr. Escott Reid, the

Secretary of the Canadian Institute of International Affairs, who prepared a valuable and substantial collection of revised and additional material. The compiler is also indebted for valuable material which was received from a Committee of the Australian Institute of International Affairs, which sat in Melbourne under the chairmanship of Sir William Harrison Moore, with Mr. A. Stirling as Secretary, and from a similar Committee in Sydney under the chairmanship of Sir John Peden, with Mr. W. J. V. Windeyer and Mr. F. L. W. Wood as Secretaries. He wishes to thank also Senator F. S. Malan and Professor Eric Walker of South Africa and Mr. John J. Horgan of the Irish Free State for most useful information relative to those countries: and further thanks are due to a Committee, under the chairmanship of Diwan Bahadur Ramaswami Mudaliar, for its assistance with the sections relative to India.

Many members of Chatham House have made helpful suggestions and contributions. In particular, the greater part of Part II was prepared by Mr. R. C. M. Arnold—a portion being taken from his monograph on *Treaty-making Procedure*; and much of Part III was prepared by Mr. D. Baring.

The compiler is particularly grateful to Dr. F. G. Spurdle, who has been most painstaking in revising the work for the press, and has made some valuable additions to the text. He also wishes to express his grateful thanks to all those who have provided information, and to Miss Margaret E. Cleeve and the staff of the Publications Department of Chatham House, without whose help the production of this Handbook would not have been possible.

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## INTRODUCTION

# THE CONSTITUTIONAL DEVELOPMENT OF THE BRITISH EMPIRE IN REGARD TO THE DOMINIONS AND INDIA FROM 1887 TO 1933

*By* PROFESSOR A. BERRIEDALE KEITH

### I. THE DOMINIONS

WHEN the colonies which now form the Dominions met at the Colonial Conference summoned in 1887 in honour of Her Majesty's fifty years of a prosperous reign, their government accorded in essence with the scheme laid down in Lord Durham's famous report. His remedy for the disorders in Canada was the concession of wide autonomy in local affairs, subject to effective Imperial control in matters affecting other than local interests, and subordination to the British Government in all external issues, which that Government was to administer as a trustee for the interests of the Empire as a whole. Less than half a century has seen the whole structure completely remodelled; the Dominions now possess absolute autonomy in internal and external affairs alike as parts of a British Commonwealth, composed at present of six<sup>1</sup> full members, while like status has been promised to India.

This vital change has been effected by a long series of steps, marked in part by resolutions of the Colonial Conferences from 1887 to 1907 and the Imperial Conferences from 1911 to 1932. In large measure it has been accomplished in the traditional English form of constitutional conventions affecting the use of the royal prerogative or the statutory powers of the Crown, but legislation has also intervened, and the gains achieved have in some measure been summed up and consolidated in the Statute of Westminster, 1931. Of the steps of progress it is impossible to give a record based on chronology alone, and space suffices

<sup>1</sup> The cessation of the exercise in Newfoundland of Dominion status proposed by the Royal Commission of 1933 will, it is hoped, be temporary.

only to indicate the main heads of progress to the end now achieved. Advance first began, as was natural, in internal affairs, and these may be treated under the following heads.

I. CONSTITUTIONAL CHANGE. Lord Durham had reserved constitutional issues for Imperial control, and in 1887 that control existed unimpaired. The Canadian constitution was rigid; those of the five Australian colonies which enjoyed responsible government could be altered only by reserved bills which normally had to be laid before Parliament before sanction could be given, and, though conditions were less strict in the case of Newfoundland, New Zealand, and the Cape of Good Hope, change was impossible without British assent. But in 1890 a notable concession was made to Western Australia on the grant of responsible government; Parliament rejected a strong plea for the reservation of control over the colonial lands, and enacted the Constitution, prepared locally, without much hesitation; and in 1893 the colony of Natal was permitted to assume responsible government despite the paucity of the European population, and the future of the native population was virtually entrusted to its care. British encouragement was freely forthcoming in the following years to the project of Australian federation, and British pressure finally induced the inclusion of the reluctant Western Australia as an original member of the Commonwealth of Australia. Nor was exception taken to the demand by the colonies that the federation should have complete power to amend its own Constitution, in absolute divergence from the Canadian rule. The States in 1907 were relieved from the cumbrous conditions affecting their powers of constitutional change, and a simple code provided in lieu, under which Queensland was enabled in 1921-2 to abolish the upper chamber. Even more striking was the progress in South Africa, where the Crown Colonies of the Transvaal and the Orange River Colony were accorded responsible government in 1906-7 and the four colonies were formed in 1909 into a legislative union. Not only were the terms



of that union framed without British interference, save in the form of suggestions, but the British Parliament consented to the inclusion of clauses which denied membership of Parliament to non-Europeans and drastically limited the franchise in the case of non-Europeans, and to the right of the Union Parliament freely to amend the terms of that instrument. There was in fact little left for the Statute of Westminster to do for the Union; Canada declined the grant of increased power pending agreement with the provinces, and a like view was expressed by the Commonwealth of Australia and New Zealand, which, with Newfoundland, reserved the right to accept the Statute in whole or part, and so far have shown no inclination to take action under it.

In the case of the Irish Free State the tacit understandings, which regulated the relations of the British Government and Parliament and the Dominions, were converted into legal rules. Relations were regulated by articles for a treaty which gave the Free State the status of Canada, and the Constitution framed by the Constituent Assembly of the Free State was enacted also by the British Parliament. The Statute of Westminster gave the Free State unfettered power to repeal the British Act and left it bound only, if at all, by the restrictions laid down by the Constituent Assembly, which had subjected such legislation to the rule of conformity with the Treaty of 1921. In 1933, however, the Free State Parliament determined that it had power to legislate disregarding this restriction and to strike out the limitation from the Constitution; and on the strength of this view it deleted from the Constitution the oath required thereunder in accordance with the treaty to be taken by all Members of Parliament.

2. THE POSITION OF THE GOVERNOR-GENERAL OR GOVERNOR. In 1887 the Conference discussed in an interesting manner the status and functions of the Governor. It was clearly recognized that he had two distinct functions in regard to the government of each colony. (1) He was the head of the administration playing a part analogous to that

of the Queen in the United Kingdom. But it was admitted that, whereas the Queen had never during her reign refused to grant a dissolution of Parliament to a ministry which asked for it, the Governor had the right and even the duty not to grant a dissolution if he could find another ministry prepared to carry on the government in the event of the resignation of the ministry to which a dissolution was refused. Further, the Governor had a personal duty to decide questions of the grant of pardon to convicted murderers. (2) The Governor was the channel of communication with the British Government and its representative in the colony, and was bound to obey any orders given to him by that Government, even if they conflicted with the wishes of the Colonial Government. The position might be anomalous, but in New Zealand in 1892 the Government enunciated the doctrine that, if the Governor in supposed obedience to Imperial instructions refused to accept its advice to add members to the upper chamber, then its duty was to remain in office and address the Secretary of State to secure acceptance of its views, and this course was successfully adopted. In the same year the personal responsibility of the Governor was altered as regards pardon. In all cases he was normally to act on ministerial advice, but in cases where interests other than local interests might be affected, he was to take such considerations into account before making his decision. The older rule, however, remained for the South African colonies, and was maintained for the Union of South Africa and still applies to Newfoundland. The difficulty of a Governor who received divergent instructions from the Secretary of State and advice from ministers was painfully revealed in 1906, when the Government of Natal resigned on the issue of the postponement by the Governor of sentences imposed under martial law on natives. As no alternative ministry could be formed, the Secretary of State withdrew his instructions.

The requisite harmony between Governor and ministers was normally present, and by 1890 it had become recognized that the Colonial Government should be asked to

approve the selection of the Governor made by the British Government. The creation of the Irish Free State led to a further concession, for the Governor-General was chosen by the Free State Government and approved only by the Crown. Though occasionally criticism of the Imperial functions of the Governor-General had been voiced, it was only in 1926 that the issue of the Governor-General's position was seriously considered; and the immediate cause of discussion really arose from the action of the Governor-General of Canada, merely in his function as head of the Canadian Government, in refusing to grant a dissolution of Parliament to Mr. Mackenzie King and his subsequent grant of a dissolution to Mr. Meighen. On the defeat of Mr. Meighen at the general election, the issue was discussed at the Imperial Conference of 1926, with the result that it was made clear that the functions of the Governor-General should be confined to representation of the King to the exclusion of any functions on behalf of the British Government, unless indeed any Dominion preferred that the functions should remain combined. The assimilation of the position of the Governor-General so expressly to that of the King carried with it the implication that the British practice in matters of dissolution should be followed, and this principle was asserted and acted upon by the Governor-General of the Commonwealth of Australia in 1931. A logical sequel to the decision of 1926 was taken by the Imperial Conference in 1930, when it was laid down that in future the appointment of the Governor-General should rest on the authority of the Dominion Government concerned, and this was carried into effect in the case of the new Governors-General of Canada and the Commonwealth of Australia, whose Commissions were countersigned by the Dominion Prime Minister and not by the Secretary of State. A trace of the former practice remained in the sealing of the Commissions with the Signet, the seal of the Secretary of State, and, when new Letters Patent were issued for Canada in 1931, though issued at the request of the Dominion Government and on its authority, they were still passed under the Great Seal of the Realm on the

formal authority of the usual British warrant.<sup>1</sup> Nor were any substantial changes made in the Letters Patent or the Royal Instructions accompanying them.

The changed position of the Governor-General rendered it necessary for the British Government to provide itself with representation in the Dominions, and officers of the rank of High Commissioner were sent to Canada and the Union of South Africa, and promised to the Commonwealth of Australia; New Zealand and Newfoundland, on the other hand, preferred to maintain the Governor-General and Governor respectively as representatives of the British Government, while with the Irish Free State relations are conducted direct without the employment of any representative at Dublin. In 1932 the Irish Free State asserted successfully the right of the Government to secure the removal by the King from office of a Governor-General who was held by that Government to be a *persona non grata*. The decision was a very important one, because it revealed clearly the complete difference between the Governor-General's position and that of the Crown, the latter holding office by hereditary succession, the former at the pleasure of the Government of the day.

3. THE AGENTS-GENERAL AND HIGH COMMISSIONERS. The High Commissioner for Canada had been appointed by the Dominion Government mainly in order that he might fulfil duties at London analogous to those of the ambassador of a foreign State, and that with British aid he might negotiate commercial arrangements with foreign Powers. In this office Sir C. Tupper acted in many respects as a Minister Resident of Canada, speaking with much authority for the Dominion cabinet. Later, the office was rather concerned with commercial and financial questions, as were normally the Agents-General of New Zealand and the other colonies. High Commissioners for the Commonwealth of Australia and the Union of South Africa were created in due course, the same style was adopted for New Zealand, and the Irish Free State at once set up such an

<sup>1</sup> See Appendix A, pp. 232 ff., for further particulars.



office. At the Imperial Conference of 1911 Sir J. Ward suggested that the High Commissioners should become the channel of communication between the British and the Dominion Governments, but this proposal was not generally acceptable. In 1912, at Mr. Borden's instance, the British Government intimated that it would welcome the appointment of Dominion Ministers Resident in London for purposes of close contact, but effect was only given in a partial manner to this suggestion by Canada during the Great War, and for a time by Australia in 1932-3. The High Commissioners, however, have naturally attained greater importance as instruments of inter-communication since the change in the position of the Governors-General. But they are not systematically employed as the channel of communication between governments, for communications are normally exchanged direct between the Dominions Office, formerly separated from the Colonial Office in 1925, and the Departments of External Affairs in Canada, the Commonwealth of Australia, the Union of South Africa, and the Irish Free State. On the other hand, the representative position of the High Commissioners was accorded recognition in 1931 by the grant to them of high precedence.

4. EXTRA-TERRITORIAL POWERS OF LEGISLATION. In 1891 the Privy Council definitely enunciated the important doctrine, which had already been put forward in the colonies, that a colonial legislature had normally no power to legislate so as to impose a penalty for acts done outside the limits of the colony. The extent and bearing of the rule were much discussed, but, while various modes of evasion or limitation of the doctrine found favour in the courts, it was on several occasions applied, especially in Australia and New Zealand, to invalidate legislation. On many matters, however, express authority to pass legislation with extra-territorial validity was given by the British Parliament, especially as regards control of military and air forces and of naval forces. A suggestion that the doctrine should not be held applicable to the Commonwealth of Australia on

its formation was negated, but wider powers than usual were expressly conceded regarding merchant ships trading in Australia, fisheries beyond territorial limits, &c. Further legislation was rendered necessary by the advent of air navigation, and Canada in 1920 put forward a plea for the grant of wider powers. Prolonged delay followed, owing to the disadvantage of dealing with one aspect only of a complex situation, and it was not until the Statute of Westminster was framed in 1931 that the right of a Dominion to give its legislation extra-territorial operation was recognized. Legislation under this power was passed in Canada in 1933. In the Union of South Africa, however, the power had been held to exist in 1919 and to justify legislation for the mandated territory of South-West Africa, and this exercise of authority was never challenged in the courts.

5. BRITISH CONTROL OF COLONIAL LEGISLATION. By 1887 the control of the British Government over legislation by the colonies had ceased to be exercised in the crude form of disallowance of Colonial Acts. But the Governor had instructions binding him to reserve certain classes of bills, unless they contained suspending clauses, delaying their operation until they had received the approval of the Crown in Council, and the Governor's power was still in exercise. But intervention to the extent of final refusal of assent to reserved measures was rare; amendments might be suggested and a compromise reached. Where the interest concerned was purely local, Acts were left to their operation. In vain, by suggestions in Newfoundland that the credit of the colony might be impaired, was Mr. Chamberlain invited in 1897 to disallow the legislation providing for the transfer to private hands of the governmental railway and other important resources of the colony. In native races interest was still taken, but the attempt to control the Western Australian aborigines independently of the local Government was quickly abandoned in 1897 in deference to Sir J. Forrest's insistence that it must rest with the people of the colony to appreciate their duty to

their less-civilized fellow subjects; and the nominal reservation of personal authority to the Governor of Natal as Supreme Chief was never made actual in practice. In the Transvaal and the Orange River Colony also ministerial responsibility was accepted, and the same rule naturally was applied on its formation to the Union. New Zealand was left from 1870 by wise treatment to wipe out of the minds of the Maoris the painful memories of the earlier wars.

Questions of status raised difficulties, but by 1887 the British Government had conceded the right of the colonies to legalize the marriage of men with their deceased wives' sisters, content with warning the colonies that such unions between persons not domiciled in the colonies left the children illegitimate in England, and, even if the parties were domiciled, forbade the children to inherit English lands or titles. Colonial persistence indeed won the day, and such marriages were first validated as regards England for the colonies in 1906 and then made valid in 1907 in England itself. By 1890 freedom of divorce legislation was conceded, though persons divorced in a colony when they were not there domiciled are, even now, in the eyes of English law, not effectively divorced. Of far greater importance was immigration, for much more than local interest was affected. Chinese, Japanese, and British Indians caused apprehension to the colonies, evoking the White Australia policy, and the determined efforts of British Columbia to close itself to Orientals. Mr. Chamberlain at the Colonial Conference of 1897 demanded the co-operation of the colonies with the British Government in delicate handling of this dangerous problem, and the plan of exclusion by a language test was thereafter generally adopted with effective result. The final concession was made in 1907, when the newly created legislature of the Transvaal was allowed virtually to exclude Asiatics. But right to exclude was recognized even as regards emigrants from the United Kingdom, despite popular criticism of the drastic character of the powers of control taken by the Commonwealth of Australia in 1901 and Canada in 1910.

The Imperial Conference of 1917 recognized that each part of the Empire had an absolute right to regulate the composition of its population, and subsequent discussions in 1921 and 1923 confirmed this doctrine. These Conferences established also that it was for India by direct dealings with the Dominions to secure fair treatment for Indians therein resident, and in 1926-7 and 1932 important accords on this head lessened the tension between the Union of South Africa and India, due to the desire of the former to free herself as far as possible of the presence of an element which it was hard to assimilate and of India to secure as far as possible full civil rights for Indians lawfully domiciled in the Union.

Over trade policy control in general had been abrogated long before 1887. Differential duties were still disapproved, but, after the Ottawa Conference of 1894, the legal restrictions on their grant by the Australian colonies were formally removed. Nor was control of currency insisted upon. Where desired, branches of the royal mint were established by agreement, and aid afforded in the establishment of special Dominion currencies, though considerable loss was involved to the mint by repatriating British currency, the use of which was to be dispensed with.

It was, therefore, mainly a recognition of a *fait accompli* when the Imperial Conferences of 1926 and 1930 recommended the recognition of the right of any Dominion, which so desired, to eliminate from its Constitution the right of the Governor-General to reserve bills, and asserted the sole right of the Dominion Government to recommend what bills should be reserved and how they should be treated on reservation. One difficulty alone presented itself, arising from the fact that Dominion securities have been freely admitted to rank as trustee investments in the United Kingdom, and that one condition of such treatment has been the placing on record by the government which borrows that any Act affecting injuriously the security of the investment would properly be disallowed. This condition renders it for the time being impossible wholly to remove the power of disallowance while such loans are



outstanding. But the Irish Free State, which has no such loans, in 1933 removed from the Constitution both the right to reserve and that of the Crown to refuse assent to a reserved bill.

6. BRITISH LEGISLATION FOR THE COLONIES. In 1887 the doctrine still prevailed that in certain matters of common interest with more than local effect uniformity of legislation should be secured by Imperial Acts, especially when matters of foreign relations or shipping were concerned. In the main such legislation was so framed as to cause no difficulty for the colonies, and conflict arose only in a few cases. One of these was copyright, which for a time evoked a lively controversy between the British and Canadian Governments, but Sir W. Laurier did not care to press the point, and it was not until the necessity arose of passing fresh copyright legislation in the United Kingdom that the issue was at the initiative of the British Government raised afresh and examined by a subsidiary Imperial Conference. The result was the acceptance of a new Copyright Act, 1911, Dominion autonomy being fully asserted by the principle that it rested with each Dominion whether or not to adopt the Act with such detailed modifications as might be necessary.

Far greater importance attached to the issue of merchant shipping. The British Code was brought up to date in 1894, embodying the two rights conceded to the colonies in 1854 and 1869 to regulate their registered shipping and all vessels engaged in their coasting trade, while in other matters the Imperial Act normally applied. But the legal position was obscure, and proposals in Australia and New Zealand drastically to revise the terms of the Act of 1894 evoked a Merchant Shipping Conference in 1907, the results of which were approved by the Colonial Conference of that year. The Governments of the Empire then homologated the principles already contained in the Act of 1894, and the British Parliament continued to regulate shipping, save such shipping as was registered in the Dominions or vessels engaged in the coasting trade thereof, leaving these

subject to Dominion legislation. Some confusion arose from failure of action in the Dominions, and the issue was discussed by the Imperial Conferences of 1926 and 1930. The result was, in the interests of constitutional propriety, to terminate the practice of British legislation as paramount and to recognize the unfettered right of every Dominion to legislate on shipping matters with extra-territorial effect. But, to prevent fatal conflicts of authority, an important agreement<sup>1</sup> was signed in 1931 at the same time as the legal powers of the Dominions were freed, by the Statute of Westminster, from existing restrictions, including the necessity of express approval by the Crown even of Acts dealing with Dominion registered shipping and the coasting trade. The agreement contemplates fair treatment in all parts of the Commonwealth for shipping from other parts and concerted action in changes of law, but it is not cast in treaty form nor made legally binding either by British or Dominion legislation.

At the same time the Statute conferred on the Dominions full power to alter any British Act so far as it was part of the law of the Dominion, and it repealed, as regards the Dominions, the application to their legislation of the Colonial Laws Validity Act, 1865, under which no colonial legislature could pass legislation which would be effective as against any British Act or regulation made under such an Act applying to the colony in question. It was, of course, recognized that there were important fields, such as prize law, Admiralty jurisdiction, nationality, extradition, &c., in which uniform action should be observed, and it was provided that, with prior Dominion assent duly recited in the Act, enactments might still be passed by the British Parliament for the Dominions. Such Acts will be liable, however, to alteration by later Dominion legislation. To complete the liberation from British control, however formal, Acts dealing with Admiralty jurisdiction were freed from the restrictions as to reservation imposed by the Colonial Courts of Admiralty Act, 1890.

These powers so far apply to the federation of Canada,

<sup>1</sup> *Cmd.* 3994.

the Union of South Africa, and the Irish Free State, and the provinces of Canada have been granted exemption from the restrictions of the Colonial Laws Validity Act, but, like the federation, are bound by the British North America Acts; they are not, of course, granted extra-territorial power, for their legislation is essentially for the province concerned. The possibility of conflict of legislation of the several legislatures in the Commonwealth is now present, but conventions regulating the use of the powers now possessed will doubtless develop.

7. JUDICIAL APPEALS. In 1887 the right of the Crown in Council to admit appeals from any colonial court was unchallenged. Local laws or British Orders in Council regulated the conditions on which the local courts could permit appeals to proceed, but over and above these provisions the Judicial Committee of the Privy Council might grant special leave to appeal. Not until the framing of the Constitution of the Commonwealth of Australia was the question of restricting the right of appeal seriously considered. Then the framers of the Constitution, who followed the model of the United States Constitution, urged that the High Court should be made final arbiter of all cases. The issue was hotly contested in Australia itself; the British Government pointed out objections to so drastic a change, and finally the Constitution was altered in passing through Parliament to exclude only appeals in matters affecting the constitutional relations of the Commonwealth and the States or of the States *inter se*; such constitutional issues being reserved to the final jurisdiction of the High Court, though even in such cases the High Court might grant special permission for an appeal. Moreover, the Commonwealth Parliament might by reserved bill further curtail the right of appeal. For a time the system worked imperfectly, for it proved possible still to bring to the Privy Council from State Supreme Courts constitutional issues of the type reserved, but in 1907 this possibility, which had led to a conflict between the Privy Council and the High Court, was brought to an end by an Act of the

Commonwealth depriving the State Supreme Courts of power to hear such constitutional cases, and since then the High Court has exercised the function of final interpreter of the Commonwealth Constitution in accord with the intentions of the framers of that measure. On the other hand, the High Court has adopted since 1920 the principles of construction of the Constitution approved by the Privy Council in lieu of those based on American precedent.

In the case of the Union of South Africa an appeal was provided only from the Appellate Division of the Supreme Court, and then only by special leave of the Privy Council; such appeals are very sparingly allowed. In the case of the Irish Free State the British Government demanded the insertion of the right of appeal in the Constitution, but steps were taken by the Free State Parliament first to nullify the value of the grant of leave to appeal in those cases in which it was granted, and then to abolish absolutely the right in question. For this action legal sanction is found in the Statute of Westminster giving power to legislate in contravention of British Acts. Canada has in 1933 likewise exercised the power, but only in respect of criminal cases, but this term covers also appeals arising out of provincial Acts imposing penalties, and such Acts sometimes raise important constitutional issues, which thus cannot be determined by the Privy Council. But normally the Privy Council is the final arbiter of the meaning of the British North America Acts. Exception has been taken in Canada to the continuation of the appeal on the ground that it is slow, and by reason of its expense puts an unfair burden on poor litigants, that its existence implies a measure of inferiority in the capacity of Canadian courts, and that it deprives the Canadian Government of the incentive to strengthen the Supreme Court. But the arguments to the contrary have so far prevailed, the essential consideration being that it is desirable that a federal constitution, which involves delicate issues of provincial and federal relations and questions of minority rights, should be finally interpreted in an absolutely impartial atmosphere.



Efforts have from time to time been made since 1900 to secure acceptance of the view that the Privy Council and the House of Lords should be fused into a single tribunal, on which Dominion judges would sit, to act as the final court of appeal for the United Kingdom as well as all other parts of the Commonwealth. These suggestions have failed to receive general support, but since 1895 a series of Acts has provided for the representation on the Committee of the judiciaries of the Dominions, all judges of their highest courts who are Privy Councillors being now, without limit of numbers, members of that Committee. But, as no salaries are provided by the British Parliament for such judges, they can sit only occasionally to hear appeals. As a result, however, of the Colonial Conference of 1907 improvements have been made in the conditions regulating appeals, and Dominion courts have the power to grant special leave to appeal when they think fit, thus rendering it unnecessary to apply to the Privy Council in the first instance.

8. DEFENCE. Long before 1887 all direct control over colonial military forces had been abandoned by the British Government, whose functions became restricted to advice and assistance in the form of the loan of duly qualified officers who, however, fell wholly under the power of the local government when serving. The terms of the Army Act applied to colonial forces only when outside the colonies and to such extent as appeared desirable to colonial legislatures, which were themselves empowered to make laws effective in respect of their forces outside their own territorial limits. The employment, however, of military forces outside colonial limits could only take place with the authority of the British Government. In regard to naval defence colonial activities were limited under British legislation of 1865 to the provision of local defence vessels which might be placed under the control of the British Government for general service in the event of war or other crisis. While Imperial military forces were no longer maintained save where Imperial interests demanded their

presence, as at Halifax and Esquimalt and in South Africa, the naval defence of the colonies rested essentially on the British Navy. The Conference of 1887 recognized that, if further provision for Australasian defence were desired than was held essential by the British Government, payment towards the cost should be offered, and the plan of the grant of subsidies by the Australian colonies and New Zealand was finally accepted and continued in operation by the Colonial Conferences in 1897 and 1902. Australia, however, now under the Commonwealth Government, evinced the desire to create a local force, and the British Government acquiesced. But in 1909 a Naval and Military Defence Conference, called into being as the result of anxiety prevailing in the Empire on account of the European situation, determined on the development of naval activity on a much larger scale by Australia, New Zealand, and Canada. The position and functions of Dominions navies were defined by the Imperial Conference of 1911, which definitely assigned them spheres of action. Canada and Australia were to control their own fleets in time of peace, receiving British aid in the loan of men and officers and the advantages of Admiralty experience; in time of war they were to be at liberty to transfer control to the Admiralty as the only means of securing effective co-ordination of effort, while New Zealand under legislation of 1913 was prepared to transfer control immediately on the outbreak of war. Before the Canadian proposal could be made effective, war broke out and the small Canadian force, as well as the much more important Australian fleet, was placed under Admiralty control. A proposal by the Admiralty in 1918 that there should in future be a single fleet under unified control was, however, rejected by the Dominions, and after the War the system of independent fleet units was resumed, but Canada reduced her naval forces to a minimum, Australia was compelled to limit expenditure, and both Dominions found themselves unable to contribute towards the cost of the Admiralty project of 1923 to create a naval base at Singapore with a special view to Australasian defence. New

Zealand, on the other hand, gave a substantial contribution. The Union of South Africa, which had up to 1921 continued the subsidies which the Cape and Natal, when colonies, had voted, in that year discontinued the grant, undertaking instead certain expenditure on coastal defence and on the development of the local branch of the Royal Naval Volunteer Reserve. Though control is not unified, it was definitely decided at the Washington Conference of 1921 that the whole of the forces of the Commonwealth must be regarded as a unit for purposes of allocation of naval strength. Effective arrangements were made by the Naval Discipline (Dominion Naval Forces) Act, 1911, under which, taken in conjunction with Dominion legislation, co-operation in training can take place between British and Dominion forces, and interchanges of ships can be carried out, thus affording the officers of the small Dominion forces the necessary opportunities for learning the principles of large-scale operations.

The anxiety of 1909 produced in military matters a movement of great importance in Australia and New Zealand which, under the influence of visits by Lord Kitchener, developed systems of compulsory training and service for home defence. In the Great War Dominion military forces were readily placed at the disposal of the British Government, or at the suggestion of that Government employed to reduce the German oversea possessions. While the supreme control of the forces placed under British control thus passed from the Dominion Governments, a large measure of autonomy in minor matters was conceded, and towards the later part of the War the Canadian Division was exempt from any but the control of the chief command of the Allied forces. Moreover, the Imperial War Cabinets of 1917 and 1918 furnished the means by which the Dominion Governments were able to take part in the decision taken by the British Government as to the employment of the forces of the Empire as a whole. On the termination of the War the former arrangements were revived, but by 1933 compulsory service had lapsed in Australia and New Zealand, voluntary

methods being substituted, largely under pressure of economic conditions. The Union of South Africa instituted in 1912 a system which contemplates the possibility of compulsory training, but which so far has been worked on a voluntary basis.

The legislation necessary for raising and maintaining forces during the War was enacted for each Dominion by its own Parliament without any pressure from the British Government. Canada, Newfoundland, and New Zealand imposed compulsory service overseas, Australia on referenda rejected such action.

For purposes of advising Colonial Governments and of dealing with colonial defence issues, a Colonial Defence Committee had been set up in 1885, but a more important innovation was made in 1901, when the Imperial Defence Committee was created by Mr. Balfour. An Imperial General Staff was created in 1906, and at the Colonial Conference of 1907 the services of both the Committee and the Staff were placed at the disposal of the Colonial Governments if they desired to make use of them, and this advice was repeated at the Conferences of 1909 and 1911, when it was hoped that each Dominion would set up some form of Defence Council and create an analogue of the General Staff to consult freely with the Imperial General Staff. The development of these projects was retarded by the War, and the system has not so far been developed on the lines proposed. Dominion Ministers, however, have ready access to the Defence Committee, and places are available for Dominion officers at the Imperial Defence College, created in 1926.

On one point the passing of the Statute of Westminster has necessitated legislation. Assertion of Dominion autonomy renders it necessary that, in those Dominions to which the Statute applies, provision for immunity from local jurisdiction of British forces if there stationed should so far as proper be accorded by Dominion Act, and such provision was made in 1933 by the Parliaments of Canada and the Union of South Africa. Like immunity for Dominion forces, if visiting the United Kingdom or other



parts of the Empire under United Kingdom control, is afforded by a British Act of 1933.

The Irish Free State stands in a special position as regards defence. In the first instance under the Treaty of 1921 coastal defence was assigned to the British Government, and, though the Free State might now claim the right to take over that burden, it has refrained from acting in this direction. Military and air defence are under local control, but the number of the forces is not to exceed the proportion of the British forces defined by the ratio between the population of Ireland and of the United Kingdom. The British Government is expressly given certain facilities for coastal defence during peace, and may require such facilities as it deems necessary in case of war.

The Free State Constitution lays down the legal principle that, save for defence in the case of actual invasion, the sanction of Parliament is necessary before active participation occurs in any war. This enunciates a constitutional doctrine acted on by the Dominion Governments during the Great War and more explicitly enunciated in 1922 on the occasion of the request from the British Government for assurances of support in the event of further hostilities with Turkey.

9. NATIONALITY AND ALLEGIANCE. In 1887 there were two classes of British subjects in the colonies: those who were entitled to rank as British subjects also in the United Kingdom, and those whose naturalization was local, and who were aliens when outside colonial limits. No means existed under which such persons could acquire recognition as British in the United Kingdom, though they were accorded protection by the British Government when in foreign countries practically to the same extent as persons naturalized in the United Kingdom. The disadvantage of this limited nationality became felt very strongly when large numbers of Americans settled in Canada and became Canadian British subjects. Accordingly, after full consideration by the Imperial Conference of 1911 and earlier Conferences, the British Government secured in 1914 the

passage of the British Nationality and Status of Aliens Act, 1914, which defined for the whole Empire the conditions conferring the status of a natural born British subject, and provided a system by which naturalization in any part of the Empire, if carried out subject to conditions similar to those laid down in the United Kingdom, would be effective in other parts of the Empire. But this system of naturalization was made dependent on its acceptance by Dominion legislation, which in due course was passed in every Dominion save the Irish Free State. Naturalization not given under these conditions still has only local effect. It proved necessary with Dominion assent to amend the Act on several occasions up to 1933, and the Imperial Conference of 1930 stressed the importance of the maintenance of a common nationality throughout the Commonwealth, to be maintained under the new system by legislation in each Dominion on similar lines after agreement with the other parts of the Commonwealth.

Within this general nationality, Canada was the first to create a class of Canadian nationals in 1920 to meet the difficulty raised by the separate membership of Canada in the organization of the Permanent Court of International Justice. For this purpose use was made of the definition of Canadian citizenship invented in 1910 for the purpose of distinguishing those persons whose attachment to Canada was such as to entitle them to re-entry without complying with the immigration regulations. In the Irish Free State Constitution of 1922 a new departure was made, for not only were citizens defined in a restrictive and admittedly incomplete manner—not yet extended—but the franchise and certain other rights were confined to them, to the exclusion of British subjects not being citizens. The Union of South Africa also created a class of nationals in 1927, and in re-defining the conditions of the franchise in 1931 it made the franchise depend on the possession of this character.

The other Dominions, without providing for special classes of nationals, have re-enacted the general terms of the British Acts, thus asserting their autonomy in this

issue. So far the classes of citizens or nationals are virtually all included in the general category of British subjects.

All British subjects, wherever they may be, are in the King's allegiance, and all persons on British territory owe local allegiance under the common law. This allegiance is not dependent on taking any oath, and oaths in fact are normally restricted to holders of certain more important offices. The deletion of the oath prescribed by the Treaty of 1921 to be taken by members of the Irish Free State Parliament in 1933 had, therefore, no bearing on the allegiance of the members in question.

In external relations the position of the colonies in 1887 was simple. They had no existence for purposes of international law as distinct units, but they were covered by the international personality of the British Crown. The Crown acted on the advice of the British Government, but that Government had laid down definite principles affecting colonial interests. General foreign relations were reserved with colonial acquiescence for British control entirely, but any issue which had special colonial interest must be made a matter of discussion with the colony. Newfoundland had been promised in 1857 that no concessions to foreign Powers would be made without consultation, and special arrangements in the interests of Canadian trade had been made with the United States in 1854 and 1871, the Governor-General in the former case, the Prime Minister in the latter case, being made a plenipotentiary for the purpose. Moreover, while the British Government still insisted that there should be no differential tariffs as a general rule, it had given in 1873 permission, which the Australasian colonies failed to use, for reciprocity within that group, and from 1879 it was willing to give any colony the right not to adhere to a general treaty of commerce made by the Crown, and to assist it in securing a special arrangement for itself, a colonial delegate being associated with the British plenipotentiary for the negotiation if desired.

The first pressure for change came from the movement

for protection with Imperial preference as a general policy for the Empire, which was pressed by the colonial delegates at a Conference held at Ottawa in 1894, when stress was laid on the fact that the colonies were precluded from giving, even if they wished, any effective British preference since it would have to be granted also to Belgium and the German *Zollverein* under treaties of 1862 and 1865, and therefore to all countries with which treaties providing for most-favoured-nation treatment existed. The British Government was not in 1895 willing to consider preference and protection, but it made certain concessions.

(1) While it negated the suggestion that the colonies could be conceded the right to make treaties independently of the United Kingdom, it was prepared to negotiate separate treaties for them, with the aid of colonial representatives who could carry out the main part of the negotiation, so long as the final treaty was signed by the British representative with the approval of the British Government. (2) Such agreements would be ratified after approval by both governments, the responsibility lying with the colonial government to secure any legislation necessary to allow of effect being given to the treaty. (3) Any concessions made to any foreign country must be extended unconditionally to the rest of the Empire, as a mark of Imperial solidarity. (4) No colony should accept from any foreign country a concession which would inflict serious disadvantage on another colony. Progress under these principles was slow, but a treaty for Canada with France was achieved in 1893, while Newfoundland in 1892 was refused permission to accept from the United States terms which would have injured Canadian trade. In 1907 a further concession was made, for Canadian negotiators were permitted to negotiate without British aid a treaty with France, the British control being asserted only by the requirement of signature by the British representative in France, and the scrutiny of the treaty by the British Government before ratification.

For various reasons this procedure was regarded by Canada as rather cumbrous, and in 1910-11 several



negotiations were carried on with consular officers of foreign Powers direct by the Canadian Government, culminating in a visit by Canadian Ministers to Washington, where, after being introduced formally to the State Department by the British Ambassador, they concluded with the United States Government an agreement, not treated as strictly a treaty, for a measure of trade reciprocity to be effected by legislation in either country. Opposition developed in Canada to the terms conceded, and the Government was defeated when it appealed to the country for a mandate on this issue. The new Prime Minister did not repeat this policy, but contemplated entering into closer relations with the British Government by stationing a Resident Minister in London who would secure contact with the British Government in all matters of foreign and Imperial policy, including defence. His attempt, however, to secure an appropriation of thirty-five million dollars as an immediate contribution to the enlargement of the British Navy failed in the Senate, and his plans had not been carried into effect when the Great War started. A Canadian Minister then maintained contact, being placed in control of matters affecting the overseas forces of Canada, and Mr. (later Sir R.) Borden, Mr. W. F. Massey for New Zealand, and Mr. W. M. Hughes for Australia visited the United Kingdom to discuss matters with the British Cabinet. In 1917 co-operation was placed on a more effective basis by the creation of the Imperial War Cabinet, which was supplemented for less important issues by the Imperial War Conference. The Cabinet differed from an ordinary British Cabinet in essential respects of form. The British Prime Minister presided, but only by courtesy; the members had no common responsibility, and decisions arrived at were binding only on those who agreed to them, and were carried out by these members so far as their colleagues in the Dominions and their Parliaments approved. But the fact that the Dominion naval and military forces were serving under supreme British control rendered this point of minor importance for practical purposes. By a natural transition,

when peace became imminent in 1918, the War Cabinet transformed itself into the British Empire peace delegation at Paris.

At this point the separate existence of the Dominions was asserted by the Canadian Government with the support of Mr. Hughes, General Botha, and Mr. Massey. It was insisted that the Dominions should be given a place at the Conference equal to that of the minor Powers, seeing that they had rendered far greater services to the Allied cause than several of these Powers. After some difficulty the demand was recognized as just by the Principal Allied and Associated Powers, and voting rights at plenary sessions were conceded. Much more valuable, however, in practice was the acceptance of the principle that the Dominions should be represented on the British Empire delegation in rotation, and that the decisions of that delegation and of the Prime Minister representing it should be taken after discussion with the Dominion representatives. A vital outcome of this arrangement was its perpetuation in the Constitution of the League of Nations. The British Empire was given a permanent seat on the Council with membership of the League, each of the Dominions—save Newfoundland—was admitted as a member, and the right of a Dominion to election to the Council, despite its membership of the British Empire, was expressly admitted. The assertion of Dominion personality was completed by the separate signature for the Dominions of the treaties of peace, and the delay of ratification until approval had been accorded by the Dominion Parliaments no less than that of the United Kingdom.

The Dominions immediately developed their distinct membership of the League by asserting their independence in that respect of British control. While their representatives at Paris had been duly appointed plenipotentiaries by the King on the advice of the British Government, their delegates to the League Assembly were accredited by their own governments, and conventions arrived at under the procedure of the Labour organization of the League were ratified, when accepted, by each Dominion Govern-

ment, not by the King. No obligation to consult the British Government as to the attitude to be adopted on disputed issues was recognized, and on several important issues the Dominions or some of them were found voting against views of the British Government. In 1927 the full recognition of their distinct status was achieved in the election of Canada to membership of the Council for three years, a precedent followed in 1930 and 1933.

Sir R. Borden, however, did not propose that the separate character of the Dominions should be confined within the limits of League action. He obtained in 1920 from the British Government agreement to the distinct representation of the Dominion at Washington, the Minister there to work in close conjunction with the British Ambassador and to take charge of the office when the latter was absent. This plan was justified by the special importance of Canadian issues in the relations of the British Government and the United States. It was not, however, immediately acted upon, and the issue presented itself in a new form in 1923 when a treaty regarding the ~~halibut~~ fisheries in the North Pacific was arranged, and when the Canadian Government desired that it should be signed only by the Canadian Minister, who in fact negotiated it. This was a departure from the principle laid down in 1907, but on the other hand the treaty would clearly have been signed by the Canadian Minister at Washington alone, had such an appointment been made. This consideration prevailed, and the King's ratification was later duly accorded at the request of the Dominion Government. It was, however, left for the Irish Free State to demand and receive the same right as that given to Canada in 1920, and in 1924 an Irish Free State Minister Plenipotentiary was received at Washington, to be followed by a similar appointment in the case of Canada after the Imperial Conference of 1926. The idea, however, that the Canadian Minister should act for the Ambassador was now dropped; it was obviously open to criticism by those Dominions which continued to look to the Ambassador to represent their interests. The United States now

that by resolution of the Imperial Conference of 1926 the countersignature of consular exequaturs was handed over to Dominion Ministers instead of the Secretary of State for Foreign Affairs. British consular officers render services to Dominion British subjects as usual, and recognition is accorded to passports issued to such subjects under the authority of the Dominion Governments.

Apart from international agreements of treaty type the Conference of 1923 acknowledged the legitimacy of inter-governmental agreements not concluded in the name of the King, but suggested that such agreements should be resorted to only in matters not political in character. This rule appears to have been generally followed.

A further development of Dominion autonomy was afforded by the decision of the Principal Allied and Associated Powers to allow the Dominion Governments to receive mandates, South-West Africa being allocated to the Union of South Africa, Samoa to New Zealand, New Guinea to the Commonwealth of Australia, while Nauru, under mandate to the Empire, is by agreement administered by Australia. In their capacity as mandatories, as in other matters falling within the scope of the League's activities, the Dominions have from the first acted in complete independence of the British Government. This, of course, has not excluded common action when desired, as when they united with the British Government in resisting what they deemed undue demands for information made by the Permanent Mandates Commission in 1926. The Government of the Union of South Africa has been engaged in discussion with the League Council regarding the extent and character of its authority, but it has disclaimed possessing sovereignty in the full sense. On the other hand, it has, apparently with the assent of the League and by agreement with the German Government, extended British nationality in the Union and the mandated territory to the great mass of German residents there, and it has created a form of government somewhat analogous to the provincial type of the Union. Transfer to provincial status has been declared to be the purpose of the Union Government, but the assent



of the League Council is necessary for effecting annexation, and even provincial status is opposed by German elements in the territory.

To define with accuracy the character of relations between the United Kingdom and the Dominions was attempted in 1926 when the Imperial Conference held that 'they are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations'.<sup>1</sup> The interpretation of this dictum was rendered more difficult by insistence also on the distinction between equality in status and identity of function, but a most important principle was laid down in respect of treaties concluded under League auspices. The question had arisen whether these treaties applied to the members of the Commonwealth *inter se*, and it was ruled that they did not so apply unless special arrangements were made to that effect, and it was recommended that such treaties should in future be concluded in the name of the King and not in that of the States Members of the League, in order that misunderstanding might be avoided. This resolution was clearly motivated by the controversy which had been carried on between the British and the Irish Free State Governments in 1924 as to the necessity of the registration with the League of Nations of the Treaty of 1921 between the two governments. The Free State contended that such an agreement was an international engagement, invalid unless registered; the British Government that the Covenant of the League and conventions concluded under its auspices had no application between parts of the Commonwealth. Though the Irish Free State seems to have acquiesced in the resolution, its view that the relations between the Free State and the United Kingdom are international was again expressed in its acceptance of the 'Optional Clause' of the Statute of the Permanent Court and of the General Act of 1928 for the Pacific Settlement of International Disputes.

<sup>1</sup> *Cmd. 2768*, p. 14.

In both cases it refused to exclude from the jurisdiction of the tribunal disputes between it and other members of the Commonwealth, a reservation made by the United Kingdom and the Dominions which accepted these instruments. In the same way in 1932-3 the Free State declined to accept the jurisdiction of an Empire tribunal of the type suggested by the Imperial Conference of 1930 for the decision of its disagreements over annuity and other payments with the United Kingdom, and demanded recourse to an international tribunal of some kind. The Union of South Africa, while reserving from the sphere of the Permanent Court disputes with other parts of the Commonwealth, has expressly done so on the ground not of legal necessity but of propriety.

Further light on the character of the relationship is thrown by the claim made in the Union of South Africa that the Union possesses the right to remain neutral in a war declared by the King on the advice of the British Government, a view shared by the Irish Free State, subject to the doubt whether any foreign Power would recognize such neutrality in view of the facilities for defence stipulated for by the United Kingdom in the Treaty of 1921. No pronouncement has been made on these issues by the Imperial Conference, and the fact that the Dominions are members of the League of Nations and signatories of the Briand-Kellogg Pact of 1928 for the renunciation of war as an instrument of national policy has rendered further definition of the issue academic. The right of secession has been claimed in the Union of South Africa as inherent in Dominion status, but the Statute of Westminster in its preamble demands the assent of all the Dominion Parliaments as well as that of the United Kingdom for any change in the succession to the throne, so that presumably secession must be a matter of arrangement and is not legally possible by unilateral action. The constitutional relations, therefore, of the Commonwealth appear to be those of a loose confederation, whose members are mainly bound by ill-defined and elastic conventional understandings based on a common allegiance.

## II. INDIA

In 1887 no breach had been made in the system of benevolent autocracy under which both British India and the Indian States were governed. The doctrine prevailed that the only possible system of government was from above; there must, of course, be responsibility, but that responsibility could be only to the British Parliament. This meant that Indian affairs must be controlled absolutely by the Secretary of State in Council, the Council being so constituted as to furnish that element of trained opinion and actual experience of Indian government which would enable the Minister to deal on effective terms with the weight and knowledge of the Government of India. The result was a system highly centralized, for the Government of India was under detailed control from the India Office, and it had, therefore, to exercise a like control over the provincial governments, though, since Lord Mayo's viceroyalty, some slight discretion in financial matters had been accorded. Even local government, despite the benevolent initiatives of Lord Ripon, was essentially under official control, justified in the interests of financial economy, of honesty, and of efficiency, urgently demanded by the necessity in a poor country of turning to the best purpose the scanty funds available. The more important Indian States preserved in internal affairs a very wide autonomy, but the British Crown as the paramount Power could intervene to prevent gross misrule, and in many ways it was active in working for the improvement of administration, economy in the use of public funds, and the welfare of the subjects of the States.

It followed from the principles of the system that the legislatures, which had been reconstituted under legislation of 1861 both for the central and the provincial governments, were restricted purely to the function of considering and passing laws, their constitution as nominated bodies with a predominant official element ensuring that, while they could help the administration to frame wise measures, they could not defeat any measure desired by the several

governments with the authority of the India Office. The first change of importance was achieved after most elaborate investigation in 1892, and it was of the most limited kind. Permission was given for the discussion of the annual financial statement of each government, and for the asking of questions, under severe restrictions, and subject to the rule that no motion could be moved in respect of the financial statement or the answer to any question. The Councils were enlarged, and, though the principle of nomination was still adhered to, permission was given under which it was possible for nominations to be given to persons put forward by such bodies as local authorities, chambers of commerce, or universities. In 1909, after most careful consideration, further concessions were made, but without any purpose of introducing parliamentary institutions which Lord Morley believed unsuited to India. It was his desire and that of Lord Minto to enlist in support of the various administrations the active co-operation of the aristocratic and landed classes, the mercantile community, and the intelligentsia of India. The reforms increased the number of members of the Councils considerably, and provided definitely for formal election of a proportion of the non-official element, so that each Council in future contained, in addition to the head of the Government and the Executive Council (if any), nominated officials, nominated non-officials, and elected non-officials. In the provinces non-officials were allowed to be in a majority. The right to ask supplementary questions was conceded, and resolutions could be moved not merely on the financial statement but also on any matter of public interest; these recommendations, even if carried, need not be acted upon by the governments, but in fact they always received careful consideration and in certain cases were accepted in whole or part. At the same time, for the purpose of associating Indians more closely with the instruments of final control in India and the United Kingdom two Indians were appointed in 1907 members of the Secretary of State's Council, and in 1909 Mr. Sinha was made legal member of the Governor-General's Council.



The reforms left untouched the problem of unrest in Bengal, created by the separation of Bengal into two provinces in 1905 on important grounds of administrative efficiency under Lord Curzon's régime; but in 1912 an effort was made to solve that problem by the decision to transfer the headquarters of the central government from Calcutta to Delhi, the imperial capital of the Moguls. Bengal was reconstituted as a province predominantly of Bengali population; Assam was created as a distinct, more or less homogeneous, province; and a new province, Bihar and Orissa, was set up. At the same time the Government of India insisted that it envisaged the future of India as the development of provincial autonomy, the central government intervening only to prevent misgovernment, and dealing in general mainly with Imperial issues.

Whatever might have been the fate of the Morley-Minto reforms under more normal circumstances, it was impossible that they should be regarded as satisfactory by India under the conditions created by the Great War, during which India rendered great services to the common cause. Discussions in India resulted in definite proposals being made in 1916 by the Indian National Congress and the All-India Moslem League which envisaged the transfer to Indian control of Indian government with the exception of military matters and the foreign and political relations of India, including the negotiation of treaties and the making of war and peace. It is noteworthy that, while demanding that the legislatures, central and provincial, should be largely elective, the reformers conceded that the executives ought not to be dependent on the legislatures for their term of office, and that the executive government, while it might be forced to carry out resolutions of the legislature in the long run, would nevertheless enjoy considerable power of delaying action.

The governmental response was not ungenerous. On 20th August, 1917, Mr. Montagu announced that it was the policy of the British Government to increase the association of Indians in every branch of the administration and the gradual development of self-governing institu-

tions with a view to the progressive realization of responsible government in India as part of the British Empire. Mr. Montagu visited India to mature a programme, and his discussions with the Viceroy resulted in the Montagu-Chelmsford Report, which, after full consideration of the plans of the Government by a Joint Select Committee, ended in the passing of the Government of India Act, 1919. The scheme of the Act was simple. It accepted the view that final responsibility for India must still rest with Parliament, and that there could for the time being be no introduction of ministerial responsibility in the central government. Nevertheless, the power of Indian opinion to influence that government was to be increased by the reconstitution of the legislature into two houses, of which the lower was to be at least five-sevenths elective and of the nominated members one-third were to be non-official, while in the upper house not more than twenty of the sixty members might be officials.

In the provinces the unicameral legislatures were enlarged and the experiment of responsible government was made under careful safeguards. The idea of entrusting the whole business of a province to ministers was rejected; instead certain subjects were marked out as provincial in distinction from central, and within this group a further division was made. Those issues which vitally concerned the administration of the province and its financial solvency were reserved for the control of the Governor in Executive Council, under the final authority of the Secretary of State exercised through the Governor-General. Such reserved topics included irrigation, land revenue administration, famine relief, forests (save in Bombay and Burma), administration of justice, police, prisons, borrowing of money, control of all-India and provincial services, and audit. On the other hand, to the Governor, acting with the advice of a minister or ministers, were entrusted transferred matters, including local government, agriculture, fisheries, public health, public works, education other than European and Anglo-Indian, religious and charitable institutions, and development of industries.

In the sphere of ministerial action the government was in large measure to be subject to the control of the legislatures, which were reconstituted on the basis of at least 70 per cent. elected and not more than 20 per cent. official members, and no legislation on such matters could be carried over the head of the legislature. But the Governor might in case of emergency certify and authorize such expenditure as he held necessary for the safety and tranquillity of the province or for carrying on any department. The legislature, therefore, had no power by refusing supplies to coerce the administration. In reserved matters the legislature was allowed the right to vote the grants proposed by the Governor and to reduce them, but the Governor could restore omissions if he thought necessary, and by certifying bills on reserved topics could enact them over the head of the legislature. Certain payments, such as those for interest charges and for officers appointed by the Secretary of State in Council, were exempted from control by the legislature. To the Governor belonged the right to allocate finance as between the two parts of the government.

In practice, apart from the difficulties due to refusal in certain cases of co-operation by the elected members or some of them, the system proved incapable of developing ministerial responsibility to the extent hoped for by the authors of the scheme. The powers of the Governor with his Executive Council tended to overshadow those of the ministers; ministers seldom developed effective solidarity as a cabinet, acting rather as advisers in respect of their special spheres of action; in some cases it was difficult to find in the legislatures any stable grouping of sections on which to found an effective ministry, and a minority ministry might, if it secured the support of the official bloc, hold power. Pressure of financial conditions rendered close control by the Governor over any proposals involving expenditure or raising fresh revenue essential. Ministers, therefore, had scant opportunity of developing that sense of responsibility which is derived from the necessity of securing by their influence in the legislature the balancing

of the budget by prudent limitation of expenditure and the imposition of necessary taxation.

In the central government, too, the absence of any responsibility inevitably tended to engender the practice of irresponsible criticism of the administration. Over legislation and finance alike final powers of action were accorded to the Governor-General, though normally it was found unnecessary to make use of this special authority. In addition the Governor-General retained power to make, in an emergency, ordinances valid for a period of six months and this power was used on a number of occasions when special measures were urgently required to cope with anarchical conspiracy or the civil disobedience movement. These ordinances have in a number of cases now been replaced by Acts passed by the Central and Provincial Legislatures which, as at present composed, realize that anarchy is a most dangerous enemy to reform. In other cases the ordinances have been allowed to lapse, if it was found that the powers which they conferred were no longer required.

It was inevitable that, apart from those elements in India which declined co-operation, there should arise demands from the legislatures for wider authority, and, though in the Act of 1919 Parliament had planned that an investigation into the progress made should not take place until ten years' experience had been gained, the inquiry was accelerated, and a Commission under Sir John Simon presented in 1930 a report of the highest value. Its essential principles were the grant of provincial autonomy, with the creation (for those subjects allocated to the provinces) of ministerial responsibility of the normal type, even the administration of justice and police being placed under ministerial control as an essential condition of true self-government. Safeguards were to be presented by special powers given by the Constitution to the Governors to safeguard peace and tranquillity, minorities, and the rights of the services. On the other hand, there was to be no responsibility in the central government, whose continued existence in unimpaired strength was to secure



India from the possibility of grave difficulties arising from the possibility of failure of the system provided for the provinces.

The merits of the report as suggesting a scheme of evolution of full responsible government were not appreciated in India; and a new element appeared in the unexpected conversion of some of the Indian princes to the conception of a federation of India in which they would take an important place. This decision was of vital importance, because it opened up the possibility of the grant of a measure of responsible government in the central administration. If the princes were willing to enter federation virtually *en bloc*, there could be assured in the two houses of the federal Parliament such a measure of representation as would ensure the presence if not the predominance of a conservative spirit, differentiating the lower house from the rather advanced chamber of the existing régime. The princes, on the other hand, stood to gain much. Under the existing system they had no voice in the matters, often deeply affecting them, which were dealt with by the central legislature, above all the fixing of the tariff which inevitably was of high consequence to their subjects. Moreover, if responsible government was accorded to British India, they feared that their relations with the Crown might be transferred to the virtual control of an Indian ministry, whereas in a federation, though in federal matters the States must accept the decisions of the Parliament in which they would have great influence, in all other matters they would constitutionally be entitled to autonomy, and would be free from undue pressure to remodel on a democratic basis their autocratic constitutions. It was on the strength of this new element that it was possible for the British Government to lay aside the Simon Commission's Report as a basis of action, and to summon to London a Round Table Conference, at which for its first session there was a strong representation of moderate British Indian political opinion and of the Indian States. After prolonged discussions the final decision of the British Government was announced

on 19th January, 1931: 'responsibility should be placed upon legislatures, central and provincial, with such provisions as may be necessary to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.' It was made clear that, with a legislature constituted on a federal basis, the British Government would be prepared to recognize the principle of the responsibility of the executive to the legislature.

The National Congress which unquestionably was the most highly organized political body in India had remained aloof from the Conference, and it was clearly desirable to secure participation. Lord Irwin finally succeeded on 5th March, 1931, in securing an agreement with Mr. Gandhi which was followed by a resolution of the Congress at Karachi, under which Mr. Gandhi was authorized to take part in the Second Round Table Conference in London. It was, however, made clear that the Congress demanded the right of secession, control over external relations, defence, fiscal and economic policy, and an impartial examination of the financial transactions of the British Government in India. In fact the proceedings of the Conference failed to secure any co-operation from Mr. Gandhi; the Moslems, Europeans, Anglo-Indians, Indian Christians, and Depressed Classes framed independently a plan of safeguards of their rights, while every effort to settle the vital communal issue between Hindus, Mohammedans, and Sikhs failed as at the first session. The British Government, however, at the close of the Conference in 1931 reaffirmed, with the approval of Parliament, the policy of 19th January, 1931, and its intention of pursuing the necessary inquiries to enable it to frame a constitution. Further, in 1932, it framed, in default of Indian agreement, a settlement of the communal problem. Mr. Gandhi, who on his return to India had again renewed his conflict with the Government and been imprisoned, secured the assent of the Depressed Classes to certain changes in the decision as between them and Hindus generally, and issues of franchise, finance, and

financial relations with the Indian States were studied by special committees. On the basis of the material collected, the British Government announced in March, 1933, the main lines of its policy which were then submitted to a Joint Committee of the two houses, who summoned to participate with them in the hearing of evidence and discussions a number of representatives of Indian opinion.

The governmental scheme accepts the doctrine of responsible government in the provinces subject to safeguards through the Governor for peace and tranquillity, for the interests of minorities and the public services, for the prevention of commercial discrimination, for the protection of the rights of the Indian States, for the administration of areas excluded, as backward, from the general system of the province, and for the carrying out of lawful orders of the Governor-General. For these ends the Governor must be given powers of legislation and finance, but otherwise administration is to be conducted on the lines of responsible government. The Governor-General has analogous responsibilities, but also the duty of securing the financial stability and credit of the federation, and he has sole responsibility for the departments of defence, external affairs, including relations with the Indian princes so far as not covered by the federal constitution, and ecclesiastical affairs. The necessary legislative and financial powers are accorded to him. Legislative power is divided between the centre and the provinces and financial proposals are put forward to secure reasonable possibility of provincial autonomy. Adherence by the Indian States is optional, but it is proposed that the Federation will not be brought into existence until the Rulers of States representing not less than half the aggregate population of the Indian States and entitled to not less than half the seats to be allotted to the States in the Federal Upper Chamber have signified their desire to accede. Adherence will normally involve acceptance of federal legislation for federal issues, but the precise extent of federal authority may be defined in each case. Power is reserved to resume full control in the provinces or the federation in the event of the break-

down of the administration. While provincial autonomy and federal responsibility are to form essential parts of the scheme, the former may if necessary be inaugurated before the latter, which must be dependent on the prior setting up of a Reserve Bank and the establishment of a satisfactory financial and economic position in India.

Though defence is reserved from the control of the legislature, the British Government had already adopted a definite scheme for the gradual indianization of the army and air force. In a similar manner, while the Indian Civil Service and the Indian Police Service still are to be in part recruited from Europeans, a definite scheme of gradual indianization had been adopted which may be accelerated in due course; over these services a final control is reserved to the Secretary of State. For other services the protection of Public Service Commissions has already been afforded.

It is not proposed for the present to surrender control of external relations. India was admitted a member of the League of Nations in 1919 as a recognition of the services rendered to the Allied cause, but the attitude of the Indian Government on all issues has been subject to the ultimate control of the British Government, though the Indian representatives at the Assembly and in the Labour organization have normally presented the special views of India in accordance with the general opinion of the Indian legislature. Since the inauguration of the Montagu-Chelmsford reforms, it has been a convention that the customs policy of India shall be accepted by the British Government if that policy rests on the agreement of the Indian legislature and the Government of India.

In recent years the Indian Government has been encouraged to assume the role of protector of the interests of Indian subjects in the Dominions in lieu of the British Government. This position was foreshadowed at the Imperial War Conferences of 1917 and 1918, when India discussed these issues with the Dominions, and these discussions were resumed in 1921 and 1923. The direct relations between representatives of India and of the



Dominions, which were thus established, have yielded substantial results, including the grant of the franchise and of eligibility for old age pensions to Indians in the Commonwealth of Australia, and of the franchise in Queensland. Important agreements, too, were concluded with South Africa in 1927 and 1932, under which the Union receives an agent of the Government of India who represents the views of that Government and co-operates with the Union in the policy of securing the removal from the Union to suitable homes elsewhere of such Indians as do not desire to attain the Union standard of civilization. Some progress has also been achieved in the protection of the right of Indians to migrate to East Africa and in securing that their interests shall receive due consideration in any constitutional developments there.

That Dominion status is the ultimate goal of British policy for India has twice been asserted by the Viceroy, with the authority of the British Government, by Lord Irwin in 1929, and in 1933 by Lord Willingdon. On the other hand, stress was laid by the Secretary of State for India on 22nd November, 1933, on the fact that the status was not the immediate end of the governmental proposals, nor did it mark the next step in Indian progress.

### III. THE IMPERIAL CONFERENCE

Prior to 1887 no gathering of the Governments of the Empire had ever taken place, and the invitations sent by the British Government for Queen Victoria's Jubilee celebrations were issued mainly in order to mark the growing sense of Imperial solidarity and the place of the Crown in maintaining unity in the Empire. Discussion of Imperial federation was definitely ruled out, and no effort was made to arrange for any renewal of the rather miscellaneous discussions of matters of common interest which then took place. The Conference for the Diamond Jubilee of 1897 was much more definitely official, for it was restricted to the self-governing colonies, and its business was in part a continuation of the discussions on Imperial economic relations which had taken place at Ottawa in

1894 at a Conference summoned by the Government of Canada. In 1902 the Conference, summoned to celebrate the coronation of King Edward VII, by the concentration of Australian representation as the result of the creation of the Commonwealth, reduced the gathering to smaller proportions and rendered its deliberations more authoritative. In 1907 a definite shape for future Conferences was agreed upon. They were to be Conferences of the Governments of the Empire under the Presidency of the Prime Minister of the United Kingdom, the Secretary of State for the Colonies taking the chair in his absence; the Prime Ministers of the Dominions—the title then given to the self-governing colonies—were to be the other members; there was to be a secretariat to attend to the business of the Conference in the periods between its meetings which were to take place every four years. The first Imperial Conference therefore met in 1911, when the Union of South Africa replaced the former colonies in that country. The Conference of 1907 had assigned no place in the Conference to India, on the score that that territory was not self-governing, but its interests were represented by the Earl of Crewe, the Secretary of State for India, who had previously been Secretary of State for the Colonies.

The preoccupation of the Empire Governments in the War prevented the summoning of a further Conference until 1917, when, with a view to concentration of war efforts, a meeting was summoned of representatives of the Governments of the Empire, including India, who were associated with the British War Cabinet to form the Imperial War Cabinet. It was then suggested by the Prime Minister of the United Kingdom that such Cabinet meetings should be held annually, and a like meeting was convened in 1918, when it was agreed that such meetings should be held regularly, the Prime Minister of each Dominion having the right to nominate a Minister to represent him when he was unable to be present. Further, it was arranged that the Prime Ministers might correspond direct on any matters which they deemed of Cabinet importance. Imperial War Conferences under the presi-

dency of the Secretary of State were held in these years contemporaneously with the Cabinet sessions, to deal with lesser issues. But the holding of annual Cabinets was not revived, and the next Conference in 1921 was virtually of the type of the normal Imperial Conference. It negatived, as unnecessary, the proposal reached at the War Conference of 1917 to convene a Conference to consider the constitutional relations of the Empire, but affirmed the desirability of frequent Conferences. Accordingly the Imperial Conference met in 1923 and an Economic Conference was held concurrently, but in 1926 this division of topics was not repeated, and all questions were dealt with by one Conference. Unlike the Conference of 1921, it undertook, at the instance of the Irish Free State and of the Union of South Africa, in which a Nationalist Ministry had attained power in 1924, the task of defining the relations of the parts of the Commonwealth on the basis of conceding the most complete autonomy, while insisting that co-operation was also essential. As it was unable to undertake detailed examination of the legal changes desirable to carry out its principles to their logical conclusion, it recommended the summoning of a Conference of experts to examine these issues. This took place in 1929, and the Imperial Conference of 1930 homologated the results achieved and arranged for the enactment by the British Parliament, at the request of the Parliaments of the Dominions, of the Statute of Westminster, 1931.

The constitution and the functions of the Conference were not affected by the constitutional changes initiated by the Conference of 1926. They were left on the footing of 1907, save that, as recommended by the War Conference of 1917, India has been accorded due place as a full member of the Conference, and the creation of the Irish Free State has increased the number of the Dominions. The exact character of its resolutions has always been that of honourable undertakings on the part of those governments which adopt them, while other governments remain unaffected. But it remains for each government to determine freely how soon and in what way it can give

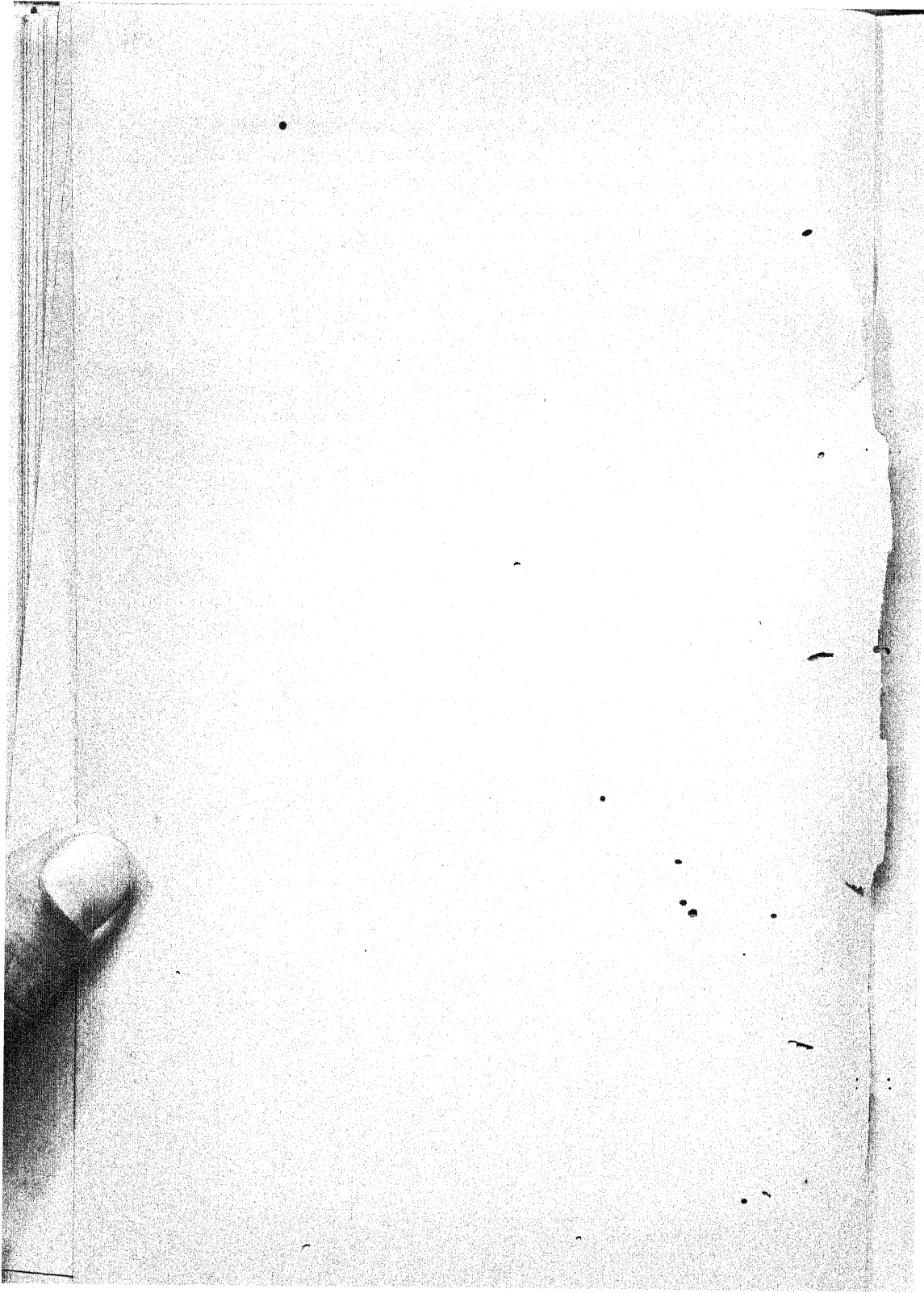
effect to any resolution to which it has agreed, and a new government is not bound by any resolution adopted by a preceding government, if it is precluded by its political views from giving effect to it. Thus the British Government in 1924 was not bound to accord the Imperial preferences which the previous government had announced at the Conference of 1923. In 1923 General Smuts suggested, in connexion with the resolution then adopted regarding the position of British Indians in the Dominions, that no resolution should be passed without unanimous agreement, but this rule has not been adopted as absolutely binding, though normally efforts are made to secure the greatest measure of common assent.

The essential function of the Conference is to consider all issues of common interest, to lay down the main lines of the common foreign policy to be adopted, and to devise means of fruitful co-operation in the economic and financial sphere as well as in development by migration of the resources of the Commonwealth. Through the Conference also the Dominions and India are brought into contact with those parts of the Empire which are not possessed of responsible government. This was notably the case at the Ottawa Conference of 1932, when the British Government in its negotiations with the Dominions and India was careful to seek to include the Crown Colonies and other territories in the system of mutual trade at which the Conference aimed.

The Imperial Conference naturally serves as a mode of removing disagreements which arise between governments in the Empire in so far as this can be achieved by friendly discussion. Serious divergences of view are clearly unsuited for such treatment, and accordingly the Imperial Conference of 1930 suggested the adoption of the principle that disputes which were of a justiciable character might be referred to an inter-Imperial tribunal whose members would all be chosen from within the Commonwealth. It was impossible to secure agreement that recourse to such a body could be demanded as of right by any member of the Commonwealth or that other methods of settling dis-



putes should be excluded, and, in the only case which has since arisen, the Irish Free State, as noted above, declined to accept an inter-Imperial court as desirable. The feeling has also been freely expressed that disagreements should rather be disposed of by discussion.



## PART I

### MACHINERY OF CO-OPERATION

THE development of administrative machinery to correspond with the constitutional growth of the British Commonwealth has always been a problem inseparable from the stages of that growth, and became the more urgent when the effects of the Great War accelerated the rate of constitutional development. The matter occupied the attention of the Imperial War Conference of 1917, which, on the motion of Sir Robert Borden (Canada), passed the following Resolution:

The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the War, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.

They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognize the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.<sup>1</sup>

This Resolution has two parts; the first deals with the question of the recognition of the Dominions as autonomous nations, a question which was settled by the adoption of the Report of the Inter-Imperial Relations Committee (Balfour Committee) at the Imperial Conference of 1926, and finally by the Statute of Westminster, 1931. The second part demands the provision of effective

<sup>1</sup> Imperial War Conference, 1917: *Extracts from Minutes of Proceedings and Papers laid before the Conference*, Cd. 8566, p. 5.

arrangements for continuous consultation and concerted action; and this remains a question the complete solution of which is still to be sought.

The Balfour Committee of 1926 examined the possibility of applying the principles of the Resolution on Treaties<sup>1</sup> of the 1923 Imperial Conference to the conduct of foreign affairs generally, and reported that:

It was frankly recognized that in this sphere, as in the sphere of defence, the major share of responsibility rests now, and must for some time to come continue to rest, with His Majesty's Government in Great Britain. Nevertheless, practically all the Dominions are engaged to some extent, and some to a considerable extent, in the conduct of foreign relations.

And further,

We felt that the governing consideration underlying all discussions of this problem must be that neither Great Britain nor the Dominions could be committed to the acceptance of active obligations except with the definite assent of their own Governments.<sup>2</sup>

The same Committee also reviewed the system of communication and consultation and reported that:

Sessions of the Imperial Conference at which the Prime Ministers of Great Britain and of the Dominions are all able to be present cannot, from the nature of things, take place very frequently. The system of communication and consultation between Conferences becomes therefore of special importance. We reviewed the position now reached in this respect with special reference to the desirability of arranging that closer personal touch be established between Great Britain and the Dominions, and the Dominions *inter se*. Such contact alone can convey an impression of the atmosphere in which official correspondence is conducted. Development, in this respect, seems particularly necessary in relation to matters of major importance in foreign affairs where expedition is often essential, and urgent decision necessary. A special aspect of the question of consultation which we considered was that concerning the representation of Great Britain in the Dominions. By reason of his constitutional position as explained in Section IV (b) of this

<sup>1</sup> For substance of this resolution, see pp. 131-2, below.

<sup>2</sup> Imperial Conference, 1926: *Summary of Proceedings*, Cmd. 2768, pp. 25-6.



Report, the Governor-General is no longer the representative of His Majesty's Government in Great Britain. There is no one therefore in the Dominion capitals in a position to represent with authority the views of His Majesty's Government in Great Britain.

We summed up our conclusions in the following Resolution, which is submitted for the consideration of the Conference:

'The Governments represented at the Imperial Conference are impressed with the desirability of developing a system of personal contact, both in London and in the Dominion capitals, to supplement the present system of inter-communication and the reciprocal supply of information on affairs requiring joint consideration. The manner in which any new system is to be worked out is a matter for consideration and settlement between His Majesty's Governments in Great Britain and the Dominions, with due regard to the circumstances of each particular part of the Empire, it being understood that any new arrangements should be supplementary to, and not in replacement of, the system of direct communication from Government to Government and the special arrangements which have been in force since 1918 for communications between Prime Ministers.'<sup>1</sup>

The Imperial Conference of 1930 reported on the subject as follows:

Previous Imperial Conferences have made a number of recommendations with regard to the communication of information and the system of consultation in relation to treaty negotiations and the conduct of foreign affairs generally. The main points can be summarized as follows:

- (1) Any of His Majesty's Governments conducting negotiations should inform the other Governments of His Majesty in case they should be interested and give them the opportunity of expressing their views, if they think that their interests may be affected.
- (2) Any of His Majesty's Governments on receiving such information should, if it desires to express any views, do so with reasonable promptitude.
- (3) None of His Majesty's Governments can take any steps which might involve the other Governments of His Majesty in any active obligations without their definite assent.

The Conference desired to emphasize the importance of ensuring the effective operation of these arrangements.

<sup>1</sup> Ibid., p. 27.

As regards the first two points, they made the following observations:

(i) The first point, namely, that of informing other Governments of negotiations, is of special importance in relation to treaty negotiations in order that any Government which feels that it is likely to be interested in negotiations conducted by another Government may have the earliest possible opportunity of expressing its views. The application of this is not, however, confined to treaty negotiations. It cannot be doubted that the fullest possible interchange of information between His Majesty's Governments in relation to all aspects of foreign affairs is of the greatest value to all the Governments concerned.

In considering this aspect of the matter, the Conference have taken note of the development since the Imperial Conference of 1926 of the system of appointment of diplomatic representatives of His Majesty representing in foreign countries the interests of different Members of the British Commonwealth. They feel that such appointments furnish a most valuable opportunity for the interchange of information, not only between the representatives themselves, but also between the respective Governments.

Attention is also drawn to the resolution quoted in Section VI of the Report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926, with regard to the development of a system to supplement the present system of inter-communication through the official channel with reference not only to foreign affairs but to all matters of common concern. The Conference have heard with interest the account which was given of the liaison system adopted by His Majesty's Government in the Commonwealth of Australia, and recognized its value. Their attention has also been called to the action taken by His Majesty's Government in the United Kingdom in the appointment of representatives in Canada and the Union of South Africa. They are impressed with the desirability of continuing to develop the system of personal contact between His Majesty's Governments, though, of course, they recognize that the precise arrangements to be adopted for securing this development are matters for the consideration of the individual Governments with a view to securing a system which shall be appropriate to the particular circumstances of each Government.

(ii) As regards the second point, namely, that any of His Majesty's Governments desiring to express any views should express them with reasonable promptitude, it is clear that a negotiating Government

cannot fail to be embarrassed in the conduct of negotiations if the observations of other Governments who consider that their interests may be affected are not received at the earliest possible stage in the negotiations. In the absence of comment the negotiating Government should, as indicated in the Report of the 1926 Conference, be entitled to assume that no objection will be raised to its proposed policy.<sup>1</sup>

These Resolutions emphasize as the guiding principle in the conduct of foreign affairs that no Member of the Commonwealth can commit any other Member to an active obligation. They also assert the need of more continuous co-operation in the conduct of affairs of common interest, and suggest that a greater measure of personal contact must be infused into the existing system of inter-Imperial communication and consultation if such co-operation is to be made really effective.

The affairs which are of common concern to the Members of the British Commonwealth may be divided into two main categories:

1. Affairs of inter-Imperial concern.
2. Foreign affairs.

In order that His Majesty's Governments in the various States of the British Commonwealth may work harmoniously in such affairs,<sup>2</sup> government machinery is required for three purposes:

- i. Information.
- ii. Consultation and decision.
- iii. Executive action.

The following is an outline of the ground to be covered in reviewing such machinery as now exists for co-operation in these matters; further details under each of the heads given will be found in subsequent sections of this work.

<sup>1</sup> Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, pp. 27-9.

<sup>2</sup> Throughout this Handbook consideration will be confined to the machinery necessary for the conduct of such of the above affairs as are of common concern; thus it excludes that considerable volume of business done by the Foreign Office and the Dominion Departments of External Affairs which is of concern only to the individual Members of the Commonwealth.

*The Crown and Governors-General*

His Majesty the King acts on the advice of his Ministers in the United Kingdom and in each of the Dominions. In the latter he is represented by a Governor-General who is constitutionally in the same position in relation to the Dominion Government as is His Majesty in relation to the United Kingdom Government. Formerly, the Governor-General was also the representative of the United Kingdom Government, and the normal channel of communication between the Governments, but he has ceased to fulfil these functions except in the case of the Governor-General of New Zealand.<sup>1</sup>

*The Imperial Conference*

Sessions of the Imperial Conference provide periodical occasions for the interchange of information and personal consultation between responsible ministers regarding both inter-Imperial and foreign affairs. Such meetings, however, cannot conveniently take place more often than about every four years.

*Permanent Machinery of Communication  
between the Governments*

The permanent machinery of communication between Dominion Governments is of two kinds:

- i. Correspondence, either between Prime Ministers direct, or between the Government Departments concerned, i.e. the Dominions Office in the United Kingdom and the Departments of External Affairs in the Dominions.
- ii. Personal contact between the representatives of the Governments in each other's capitals, or elsewhere.

These methods are applicable generally to the conduct both of foreign affairs and of other matters of common concern.

<sup>1</sup> As regards the position of the Governors of Newfoundland and Southern Rhodesia, see p. 32, below.



*Diplomatic Representation and the Negotiation of Treaties*

In the sphere of foreign affairs, special considerations arise owing to the necessity for close and daily contact with the developments and atmosphere of current events and the necessity, at times, for urgency in decision and action. It will be necessary, therefore, to give special consideration in this work to the diplomatic representation of the various Dominions in foreign countries and before the League of Nations at Geneva.

*Special Inter-Imperial Bodies of a Permanent or Temporary Character*

In the sphere of matters of common concern other than foreign policy, there are, in addition to the main machinery mentioned above, a number of bodies which have been created at different times for specific purposes, mainly of a scientific and economic character. In addition there have been proposals for the creation of other bodies of a more general and permanent nature such as a Commonwealth Secretariat, but such proposals have not gained general acceptance and only machinery of an *ad hoc* nature has been established.

*Defence*

Communication with regard to questions of defence falls into a special category. The Committee of Imperial Defence must be considered as part of the permanent machinery of co-operation in matters of defence and foreign affairs. Further, a normal channel of communication exists between the Service Departments in the United Kingdom and the Ministries of Defence in the Dominions; and there are other methods of co-operation to be considered in addition.

*Justice*

Two main matters come up for consideration under this heading:

- i. The Judicial Committee of the Privy Council.

- ii. Machinery for the settlement of disputes between Governments of the British Commonwealth.

These matters fall into a different category from the remainder of the machinery considered, but are included for the sake of completeness.

### 1. GOVERNORS-GENERAL

#### *Procedure in relation to the Appointment of Governors-General*

Until after the Imperial Conference of 1926, the Governors-General of the Dominions exercised dual functions: they were representatives both of the King and of the British Government. The procedure in relation to their appointment has gone through three stages.

Originally, when the Governor-General was an agent of, and responsible to, the British Government, he was appointed by the King wholly on the advice of that Government. The second stage, reached some thirty years ago, introduced the practice of consultation with the Dominion Government before the appointment was made, and implied the recognition of a practical power of veto by that Government; in other words, the appointment was still made by the King on the recommendation of the British Government, but that recommendation would not be put forward unless it were in accordance with the wishes of the Dominion Government concerned. The third stage developed out of the Imperial Conference of 1926, when the Dominions were given the choice of limiting the functions of their Governors-General to representation of the King alone and not of the Government of the United Kingdom.<sup>1</sup> All the Dominions except New Zealand and Newfoundland<sup>2</sup> elected to make this change.

As a result it became clear that the parties primarily interested in the appointment of a Governor-General of a Dominion are His Majesty the King, whose representative the Governor-General is, and the Dominion concerned. His Majesty now acts therefore on the advice of

<sup>1</sup> Imperial Conference, 1926: *Summary of Proceedings*, Cmd. 2768, p. 16.

<sup>2</sup> The Governor of Newfoundland in normal times is in the same position as the Governor-General of a Dominion.

the Dominion Ministers who are alone constitutionally responsible for such advice. The Ministers concerned tender this formal advice after informal consultation with His Majesty, the Government of the United Kingdom being completely eliminated<sup>1</sup> in the matter of appointment excepting in so far as the Dominion may wish to retain it as a channel of communication with His Majesty.

It was definitely the sense of the Imperial Conference of 1930<sup>2</sup> that, irrespective of the channel of communication adopted, the responsibility for advice in such cases as above should rest with the Dominion Prime Minister. It was, at the same time, the distinct opinion of the Conference that the King, in a matter which is now so personal to himself as the choice of his representative in a Dominion, might fittingly consult with and seek advice from any person or persons whatsoever. One effect of this development has been the appointment in the Irish Free State and in Australia of Irish and Australian nationals respectively.

#### *Instruments used in making the Appointment*

Three instruments are used in making this appointment, namely: the Letters Patent, the Instructions, and the Commission. A detailed account of those used in the appointment of the Governor-General of Canada and notes on the appointments of the Governors-General of Australia, New Zealand, South Africa, and the Irish Free State will be found in Appendix A.<sup>3</sup>

#### *Constitutional Position as defined in 1926*

Previous to 1926, when the Governor-General was appointed on the advice of His Majesty's Ministers in London, his functions were on one side comparable to those of an officer of the Colonial Office, and he played

<sup>1</sup> But His Majesty still appoints the Governors of Newfoundland, of the States of the Australian Commonwealth, of Northern Ireland, and of Southern Rhodesia on the advice of his Government in the United Kingdom.

<sup>2</sup> Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, p. 26.

<sup>3</sup> See p. 231, below.

an essential part in the system of communication between the Dominion Governments and the Colonial Office. At the same time he was also the representative of the King and, further, he fulfilled functions that might be described as ambassadorial; in this latter capacity one of his duties was to make regular communications to the Government in the United Kingdom on internal conditions in the Dominions.

At the Imperial Conference of 1926 the function of the Governor-General as a channel of communication between the Governments was terminated in deference to the views of Dominion Governments, expressed in 1918 and subsequently, that communication should be between Government and Government direct. The Conference passed a Resolution defining the position of the Governor-General as being:

the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as is held by His Majesty the King in Great Britain, and that he is not the representative or agent of His Majesty's Government in Great Britain or of any department of that Government.<sup>1</sup>

As a corollary to this the Conference agreed that the Governments of the Dominions should keep their Governors-General as fully informed on affairs both domestic and external as is the King by the Ministers in Great Britain. This is a matter for arrangement by the individual Governments.

The new system was subsequently inaugurated in each of the Dominions, except New Zealand and Newfoundland, who preferred, as stated above, to maintain the original arrangement whereby the Governor-General and the Governor, respectively, acted as representative of the United Kingdom Government as well as of the King.

#### *Consequences of the Change*

The present position of the Governor-General is thus constitutionally the same in a Dominion as is that of the

<sup>1</sup> *Cmd.* 2768, p. 16.



King in the United Kingdom, subject to modifications according to the Dominion constitutions. As the King's Representative, he is in a position to communicate direct with the King or with the King's Private Secretary as the case may require.

The immediate result of this change, however, as the Balfour Committee pointed out, was that 'there is no one in the Dominion capitals in a position to represent with authority the views of His Majesty's Government in Great Britain'.<sup>1</sup>

Steps were therefore taken to appoint High Commissioners to Canada and South Africa, and a Representative to Australia. No corresponding appointment has been made to the Irish Free State.

## 2. THE IMPERIAL CONFERENCE

The capital importance of the Imperial Conference lies in the fact that at more or less regular intervals it provides what is in fact the sole opportunity for personal consultation between the responsible statesmen of all the Members of the British Commonwealth and, as such, it has been the occasion of the great majority of those political and constitutional achievements which have gone to the building up of the British Commonwealth into the unique structure which it is to-day. In the constitutional field it has made gradual provision for the development of a Colonial Empire into a group of self-governing nations owing common allegiance to one Crown. The adjustments necessarily concomitant to such a development have had to be worked out in many different spheres: the conduct of foreign relations, defence, economic relations, the creation of a number of permanent and *ad hoc* inter-Imperial bodies for economic and scientific purposes, and a great many minor subjects.

The first Conference of the series was held in 1887 on the occasion of the Jubilee of Queen Victoria. Successive Colonial Conferences provided experience and precedents, and in 1907 (when the title Dominion was first adopted)

<sup>1</sup> Ibid., p. 27.

Mr. Lyttelton's proposal for an Imperial Council was rejected and the character of future Conferences was agreed upon and laid down in the following Resolutions:

That it will be to the advantage of the Empire if a Conference, to be called the Imperial Conference, is held every four years, at which questions of common interest may be discussed and considered as between His Majesty's Government and his Governments of the self-governing Dominions beyond the seas. The Prime Minister of the United Kingdom will be *ex officio* President, and the Prime Ministers of the self-governing Dominions *ex officio* members of the Conference. The Secretary of State for the Colonies will be an *ex officio* member of the Conference, and will take the chair in the absence of the President, and will arrange for such Imperial Conferences after communication with the Prime Ministers of the respective Dominions.

Such other Ministers as the respective Governments may appoint will also be members of the Conference—it being understood that except by special permission of the Conference each discussion will be conducted by not more than two representatives from each Government and that each Government will have only one vote.

That it is desirable to establish a system by which the several Governments represented shall be kept informed during the periods between the Conferences in regard to matters which have been or may be subjects for discussion, by means of a permanent secretarial staff, charged under the direction of the Secretary of State for the Colonies with the duty of obtaining information for the use of the Conference, of attending to its resolutions, and of conducting correspondence on matters relating to its affairs.

That upon matters of importance, requiring consultation between two or more Governments, which cannot conveniently be postponed until the next Conference, or involving subjects of a minor character or such as call for detailed consideration, subsidiary conferences should be held between representatives of the Governments concerned, specially chosen for the purpose.<sup>1</sup>

The representation of India at future Conferences was provided for by a Resolution of the Imperial War Conference of 1917; the Irish Free State, having become a Dominion in 1922, was represented for the first time at the Imperial Conference of 1923.

<sup>1</sup> Colonial Conference, 1907: *Minutes of Proceedings*, Cd. 3523, pp. 82-94.

Resolutions adopted at the Imperial Conference are not legally binding on any Government; executive action lies solely with the individual Governments, and it may happen that a change of government in any part of the Commonwealth will lead to a reversal of the policy agreed to by its predecessor at the Conference. This is, however, a condition inseparable from the system of free co-operation which the British Commonwealth has evolved.

Hitherto meetings of the Conference have been held in the following years: 1887, 1894 (in Ottawa), 1897, 1902, 1907, 1909 (a special Defence Conference), 1911, 1917, and 1918 (Imperial War Conference), 1921, 1923 (both an Imperial and an Imperial Economic Conference), 1926, 1930, and 1932 (Imperial Economic Conference in Ottawa).<sup>1</sup>

Proposals have from time to time been made for the creation of some body such as a permanent Conference secretariat: reference will be found to these proposals in Part IV, below.<sup>2</sup> Some criticisms of certain deficiencies in the Conference will be found in the same section.

Continuity is an essential requirement of Commonwealth relations both internal and external, more particularly the latter, where the situation changes continuously. The Imperial Conference provides only intermittent occasions for consultation; its necessary counterpart therefore is the permanent machinery which exists for communication and consultation between Governments.

#### INDIA AT THE IMPERIAL CONFERENCE

Before the War the representation of India at the Colonial and Imperial Conferences was undertaken by the Imperial Government through the attendance, at some if not all sessions, of the Secretary of State for India. During the Imperial War Conference, however, an innovation was made in that more direct representatives of India were admitted to those Conferences and to the Imperial War Cabinets of 1917 and 1918.

<sup>1</sup> A list of the Reports on the Proceedings of the Conferences is given in the Bibliography, see p. 245.

<sup>2</sup> See pp. 212-19, below.

The Imperial Conference of 1917, on the motion of Sir Robert Borden (Canada), passed the following Resolution:

The Imperial War Conference desires to place on record its view that the Resolution of the Imperial Conference of 20th April, 1907, should be modified to permit of India being fully represented at all future Imperial Conferences and that necessary steps be taken to secure the assent of the various Governments in order that the next Imperial Conference may be summoned and constituted accordingly.<sup>1</sup>

Since then India has been regularly represented at the Imperial Conference by a Ruling Prince and some distinguished public man from British India in addition to the Secretary of State.

At the Ottawa Conference, 1932, India was represented by a delegation led by Sir Atul Chatterjee, a Member of the Council of India, and comprising members of the Executive Council, the Legislative Assembly, and a State Government, and amounting to eight in all: a larger number than had represented India at any previous Conference.

There is always prior consultation between the Secretary of State and the Government of India as to the instructions to be given to representatives at the Imperial Conference.

### 3. PERMANENT MACHINERY OF COMMUNICATION

#### A. Functions of the Existing Machinery

There have been established from time to time a number of inter-Imperial bodies designed to fulfil specific functions such as scientific and economic research. These will be considered later. For the moment, we are concerned with the permanent machinery available for general communication between the Governments of the Commonwealth.

This is of two kinds. The first consists of the Government offices in the States' own capitals, viz. the Dominions Office in the United Kingdom and the Departments of External Affairs or Prime Ministers' Departments in the Dominion capitals. The second comprises the representa-

<sup>1</sup> Imperial War Conference, 1917: *Extracts from Minutes of Proceedings and Papers laid before the Conference*, Cd. 8566, p. 22.



tives of the Governments in each other's capitals, viz. the Dominion High Commissioners<sup>1</sup> or Resident Ministers in the United Kingdom; the United Kingdom High Commissioners in Canada and South Africa; the United Kingdom Representative in Australia; and the Governor-General of New Zealand. The special position of India is dealt with below.<sup>2</sup>

There are no political representatives of the Dominion Governments in each other's capitals, and there is no political representative of the United Kingdom Government in the Irish Free State.

A more detailed account of these establishments and officers will be given later.<sup>3</sup> For the most part they have other functions as well as those of communication between Governments; and indeed this latter may constitute only a small part of their business; but it is to this part that attention is directed here.

In the spheres alike of foreign and inter-Imperial affairs, communication takes two main forms: first, the supply and interchange of information, and second, inter-consultation.

#### SUPPLY AND INTERCHANGE OF INFORMATION

*a. Foreign affairs.* Successive Imperial Conferences have emphasized the necessity for a full supply of information, and the Report of the Imperial Conference of 1930 states that:

It cannot be doubted that the fullest possible interchange of information between His Majesty's Governments in relation to all aspects of foreign affairs is of the greatest value to all the Governments concerned.<sup>4</sup>

The diplomatic service of the United Kingdom provides a means for the collection of information far more highly developed than is available in any of the Dominions: this service is at the disposal of the Dominion Governments and a system has been established which aims at providing them with a complete and continuous account of

<sup>1</sup> A note on the status of High Commissioners is given in Appendix B.

<sup>2</sup> See p. 62 et seq., below.

<sup>3</sup> See pp. 20-62, below.

<sup>4</sup> Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, p. 28.

developments over the whole range of United Kingdom diplomacy.

The conditions under which this may be of use to the Dominion Governments are first, that they should receive adequate material dealing with the background of any question which may become of active interest; and second, that when questions assume current importance they should receive constant communications with regard to the latest developments as early as possible. With these objects in view, a special Dominions Information Department has been established in the Foreign Office. It is the business of this Department to collect information and supply it to the Foreign Affairs Department of the Dominions Office, whence it is forwarded in regular cables to the Dominion Departments of External Affairs; and these cables are supplemented by dispatches sent by every mail. When any questions seem likely to assume future importance, attempts are made to anticipate the need of the Dominion Governments by forwarding requisite information.

The telegrams from the Dominions Office regarding negotiations which are being carried on by the Foreign Office of the United Kingdom are frequent and at times lengthy. In some cases they contain verbatim quotations from correspondence or statements, and in other cases they provide summaries only. The form is not precisely the same as that of the material which is daily circulated to some or all of the members of the British Cabinet, but as a rule it gives at least the substance of that material. Thus the Prime Minister of a Dominion receives as much official documentary information on the foreign affairs of the United Kingdom as do some or all of the members of the British Cabinet; though the difference in the time of receipt makes a fundamental difference in his knowledge of the problems which are at the moment facing the British Cabinet, for there are many cases in which, because of the pressure of events, it is not feasible to send this information in advance, and telegrams are frequently received simultaneously with press announcements. In addition to this cabled information, Foreign Office prints

are furnished, containing dispatches between the Secretary of State for Foreign Affairs and Ministers abroad. Copies of this supply of information are furnished by the Dominions Office to the High Commissioners in London. The cost of this system is borne by the Government of the United Kingdom.

To a lesser extent, the reverse process also obtains, the Dominions Office receiving communications from the various Dominion Departments of External Affairs, but it is not a regular practice for these Departments to forward to London copies or summaries of all communications from their separate diplomatic representatives.

*b. Inter-Imperial affairs.* There is no special arrangement between the Dominions Office and any Government Departments other than the Foreign Office for the regular collection and supply of information. But it is a common practice for the Defence and, occasionally, other Departments, to supply information on matters of special interest for communication to Dominion Governments.

The Dominions Office also supplies copies of publications of all kinds and other Departmental papers when it appears that such information will be of interest to Dominion Governments.

The Dominion Governments in return send regularly to the Dominions Office a full supply of their various publications, and detailed information on other matters, particularly, for example, in relation to co-ordination in matters of defence.

Generally, speaking, the representatives of the various Governments in one another's capitals communicate to their Governments regularly both by telegram and dispatch, with regard both to the general course of affairs in the country in which they are resident and also on any specific questions which may arise.

#### CONSULTATION

The importance and difficulty of effective consultation between the Governments, particularly in the sphere of

foreign policy, has been constantly stressed by post-War Imperial Conferences.<sup>1</sup> Consultation is a much more difficult problem than the interchange of information. The procedure at present current is not systematized but is elastic; at any given juncture consultation is effected at the time and by the method which appears most convenient.

There are, however, only a limited number of methods available, and these can be classified as follows:

- i. Consultation by correspondence (i.e. by cable, telephone, wireless, or mail) either direct between Prime Ministers, or through the Government Departments concerned.
- ii. Consultation by personal contact between representatives of Governments and members of Governments in whose countries they reside.

Each of these will be considered in turn.

*a. Direct communication between Prime Ministers.* The arrangement that Prime Ministers should communicate directly with one another was made in 1918. It was the first modification of the old system of communication effected and was established in consideration of the view of Dominion Governments that their channel of communication with the United Kingdom should be more direct than it had been previously.

The Imperial War Conference of 1918 invited the Imperial War Cabinet to consider this question, and as a result the Cabinet passed the following Resolutions (30th July, 1918):

1. The Prime Ministers of the Dominions, as members of the Imperial War Cabinet, have the right of direct communication with the Prime Minister of the United Kingdom, and *vice versa*.
2. Such communications should be confined to matters of Cabinet importance. The Prime Ministers themselves are judges of such questions.
3. Telegraphic communications<sup>2</sup> between the Prime Ministers should, as a rule, be conducted through the Colonial Office

<sup>1</sup> For quotations from their Reports on these matters, see pp. 1-5, above.

<sup>2</sup> Communications can now also be made by telephone.



machinery, but this will not exclude the adoption of more direct means of communication in exceptional circumstances.<sup>1</sup>

In fact, this system has proved of less importance than was anticipated when it was established, despite the development of long-distance telephones.

*b. Direct communication between Governments.* The second method of consultation by correspondence is from Government to Government direct through their appropriate departments, i.e. the Dominions Office and the Departments of External Affairs. Communication may be by wireless, cable, telephone, or dispatch. In any case this method involves the correlation by correspondence of the views of all the Governments; and this may be necessary at a time when the necessity for one of the Governments to take a decision is urgent.

*c. Personal contact.* Lastly, consultation may be effected through the personal contact of representatives of the Governments with each other and with members or officials of the Governments in whose countries they reside. This method has been developed to a certain extent at Geneva, where it is the practice for the Commonwealth delegates to meet at intervals during sessions of the League Assembly and on similar occasions such as international conferences.

It is also to a lesser extent the practice for the representatives of the Members of the Commonwealth in each other's capitals to play some part in the procedure of consultation mainly by personal interviews with members or officials of the Governments in whose country they are residing. This practice is used as an auxiliary to the method of consultation by correspondence between Governments; the extent to which it is used varies as between the different Governments, and its effectiveness depends on the degree to which the various representatives enjoy the confidence of their Governments.

Owing to the fact that the Dominions are not represented in one another's capitals, any personal contact

<sup>1</sup> *Cd.* 9177, p. 165.

between representatives of their Governments can as a rule only take place in London or Geneva.

## B. Review of the Existing Machinery

### DEPARTMENTS AND OFFICIALS

Reference has been made above<sup>1</sup> to the functions of the various departments and officials in so far as they are normally concerned with communication between, and representation of, the Governments of the Commonwealth; and a brief account has been given of the methods of communication employed. A list of these departments and officials is set out below and is followed by a rather more detailed review of their activities.

Apart from Defence, which is dealt with in a separate section below,<sup>2</sup> the permanent machinery for the conduct of matters of common concern consists of the following departments and officials:

#### UNITED KINGDOM

The Dominions Office.

The Department of Overseas Trade: Empire Division.

The Government of the United Kingdom is represented in the Dominions by the following officers:

Canada—the High Commissioner in Canada for His Majesty's Government in the United Kingdom.

Australia—the Representative in the Commonwealth of Australia of His Majesty's Government in the United Kingdom (pending the appointment of a High Commissioner).

New Zealand—the Governor-General.

South Africa—the High Commissioner in the Union of South Africa for His Majesty's Government in the United Kingdom; His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland.

The Irish Free State—there is no representative other than the Trade Commissioner.

<sup>1</sup> Pp. 5-8, above.

<sup>2</sup> See pp. 84-115, below.

Newfoundland—the Governor.<sup>1</sup>

Southern Rhodesia—the Governor.<sup>1</sup>

CANADA

The Department of External Affairs.

The High Commissioner, who represents Canada in the United Kingdom and is an Officer of the Department of External Affairs.

Canadian Air Liaison Officer, who is attached to the Air Ministry, London.

Agents-General in the United Kingdom for the Canadian Provinces.

AUSTRALIA

The Prime Minister's Department and the Department of External Affairs.

The High Commissioner,<sup>2</sup> who represents the Australian Government in the United Kingdom and is attached to the Prime Minister's Department.

The External Affairs Officer in London, who is a member of the staff of the Department of External Affairs, and three Liaison Officers for Defence, all of whom are on the staff of the High Commissioner.

The Agents-General in the United Kingdom for the individual Australian States.

NEW ZEALAND

The Prime Minister's Department. This Department contains an 'Imperial Affairs Officer', who is also Secretary of External Affairs and has charge of the Department of External Affairs.

The High Commissioner, who represents the Government of New Zealand in the United Kingdom and is responsible to the Prime Minister.

SOUTH AFRICA

The Department of External Affairs.

<sup>1</sup> As regards the special position of the Governors of Newfoundland and Southern Rhodesia, see p. 32 below.

<sup>2</sup> From February 1932 to October 1933 there was an Australian Resident Minister stationed in London. See p. 228, below.

The High Commissioner, who represents the Government of the Union of South Africa in the United Kingdom and is an Officer of the Department of External Affairs.

#### IRISH FREE STATE

The Department of External Affairs.

The High Commissioner, an Officer of the Department of External Affairs, who represents the Government of the Irish Free State in the United Kingdom.

#### NEWFOUNDLAND

A Trade Commissioner is at present the only representative of Newfoundland in London.

#### SOUTHERN RHODESIA

The Departments of Internal Affairs and of Finance.

The High Commissioner, who is the official representative of the Colonial Government in the United Kingdom.

#### INDIA<sup>1</sup>

The High Commissioner in the United Kingdom.

The Agent-General in the Union of South Africa.

### THE UNITED KINGDOM

#### THE DOMINIONS OFFICE

##### 1. *The Creation of a Dominions Division of the Colonial Office*

As early as 1907 opinion amongst Dominion statesmen favoured some modification in the organization of the Colonial Office in recognition of the constitutional and political developments within the Dominions which differentiated them from the Crown Colonies. As a result a special Dominions Division of the Colonial Office was formed.

##### 2. *The Establishment of the Dominions Office*

The formation of a Dominions Division of the Colonial Office was not, however, the final arrangement, and the development, of which the creation of this Division was

<sup>1</sup> See p. 67 et seq., below.



a manifestation, continued. It was the logical outcome of this continuance that the Government of the United Kingdom should in 1925 find that the Dominion Governments were agreeable to the idea of establishing a Dominions Office and creating a new Secretaryship of State. The change was made partly to accord with the sentiments of the Dominions, partly to meet the increasing exigencies of the work in the Colonial Office. The reasons and scope of the change were given by the Prime Minister (Mr. Baldwin) in answer to a question in the House of Commons on 11th June, 1925. He said:

The Government have come to the conclusion that the existing organization of the Colonial Office is no longer in correspondence with the actual constitutional position in the Empire, and is inadequate to the extent and variety of the work thrown upon it. It fails, more particularly, to give sufficiently clear recognition to the profound difference between the work of communication and consultation with the self-governing partner nations of the British Commonwealth and the administrative work of controlling and developing the Colonies and Protectorates for whose welfare this House is directly responsible. The following changes are, therefore, proposed:

1. The conduct of affairs with the Dominions will be under a separate new Secretaryship of State for Dominion Affairs, with its own Parliamentary Under-Secretary of State, who will also act as Chairman of the Oversea Settlement Committee, and Permanent Under-Secretary of State.
2. For reasons of practical convenience, the new Secretaryship of State will continue to be vested in the same person as the holder of the Secretaryship of State for the Colonies, and the Department of Dominion Affairs will continue to be housed in the Colonial Office.<sup>1</sup>

This arrangement, under which the Secretaryships of State for Dominion Affairs and for the Colonies were combined in the same person, continued from 1925 to 1930. They were then divided and Dominion affairs became the entire charge of a principal Secretary of State.

<sup>1</sup> *House of Commons Debates* (London), 5th series, vol. clxxxiv, col. 2239, 11th June, 1925.

### 3. *Organization*

In addition to the Secretary of State for Dominion Affairs there is the following personnel:

The Parliamentary Under-Secretary of State.

The Permanent Under-Secretary of State.

Two Assistant Under-Secretaries of State.

The Assistant Secretaries in charge of the Divisions.

Below the rank of Assistant Under-Secretary of State, the staff of the Dominions Office and the Colonial Office is interchangeable. The services of the Legal Staff, the Establishments Branch, the Library, the Accounts, Printing, Revision of Records, and Telegraph Sections are at the disposal of both offices, which remain housed in the same building.

The Secretary of State selects the Permanent Under-Secretary of State, the Assistant Under-Secretaries of State, the Legal Adviser and Assistant Legal Adviser. The other officials are recruited after competitive examinations held by the Civil Service Commissioners.

### 4. *Functions*

The function of the Dominions Office is essentially of a diplomatic character, as opposed to the administrative nature of the work of the Colonial Office; it is the liaison between His Majesty's Governments in the United Kingdom and the Dominions. In the debate on the creation of the separate Secretaryship of State for Dominion Affairs in the House of Commons on 27th July, 1925,<sup>1</sup> Mr. Walter Runciman called it 'a Foreign Office with a family feeling'.

The office has four divisions, each under the charge of an Assistant Secretary. These divisions are:

i. Imperial Conference (general).

Defence.

Arbitration and Disarmament.

Nationality and Passport questions.

<sup>1</sup> Ibid., vol. clxxxvii, col. 65, et seq., 27th July, 1925.

Constitutional questions.  
Cereimonial.

ii. International Affairs.  
Communications.

This division is in close contact with the Dominions Information Department of the Foreign Office, by which it is provided with a regular supply of information for transmission to Dominion Governments.

iii. Imperial Conference in its economic aspects and related questions.

iv. Matters relating to individual Dominions and to Southern Rhodesia and the South African High Commission<sup>1</sup> Territories.

Establishment matters (including those relating to United Kingdom Representatives in the Dominions and their staffs).

Southern Rhodesia does not possess full Dominion status; the most important limitation on its responsible government lies in the maintenance by the British Government of a right to intervene in questions of native policy. An anomaly therefore arises in so far as it is the Colonial and not the Dominions Office which traditionally deals with matters concerning native administration.

*5. Oversea Settlement Department*

This is a Department of the Dominions Office, and the salaries of the Secretary and staff are borne on the Dominions Office Vote. The staff serves the Oversea Settlement Committee which was appointed to assist His Majesty's Government in the United Kingdom in carrying out the policy embodied in the Empire Settlement Act, 1922. The Department is constituted in accordance with the recommendations of the Dominions Royal Commission and the Empire Settlement Committee.<sup>2</sup> The purpose of the Oversea Settlement Committee is to be a Central Emigration Authority, capable of carrying out any policy as

<sup>1</sup> For a note on His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland, see p. 31, below.

<sup>2</sup> Cf. *Cd.* 8462 and *Cd.* 8672.

regards emigration which may be decided upon by the Government of the United Kingdom in consultation with the Dominion Governments. It has executive powers, and the ultimate responsibility for its actions lies with the Secretary of State for Dominion Affairs.

The Committee is constituted as follows:

President: The Secretary of State for Dominion Affairs.

Chairman: The Parliamentary Under-Secretary of State for Dominion Affairs.

Representatives from the following Government Departments:

Dominions Office.

Board of Trade.

Ministry of Labour.

Department of Overseas Trade.

War Office.

Ministry of Health.

Treasury.

Ministry of Agriculture.

Representatives appointed by each of the Dominion Governments.

One of the Agents-General for the Australian States.

One of the Agents-General for the Canadian Provinces.

Five private members, of whom two are women.

Further, representatives of other parts of the Empire and of other Departments are invited to attend the Committee if the matters discussed concern them.

It is laid down that the Committee should deal chiefly with the following matters:

The licensing of passage brokers and their agents.

The licensing of emigration societies.

Dissemination of information about openings in the Dominions.

Advice with regard to accommodation and health on board ship.

In setting up the Committee no alteration was contemplated in the various organizations which the Dominions and State Governments maintain, and which continue to have the final word on the selection of emigrants.



## 6. Finance

The estimated net expenditure from Votes administered by the Dominions and Colonial Offices for the year 1933-4 was as follows:<sup>1</sup>

	£
Colonial Office (Class II, Vote 9)	146,704
Colonial and Middle Eastern Services (Class II, Vote 10)	732,079
Dominions Office (Class II, Vote 4)	51,450
Dominions Services (Class II, Vote 5)	75,163
Oversea Settlement (Class II, Vote 8)	69,325
Empire Marketing (Class II, Vote 7)	220,000

## DEPARTMENT OF OVERSEAS TRADE: EMPIRE DIVISION

A considerable part of the work of the Empire Division of the Department of Overseas Trade—as of the Department as a whole—comprises the supplying of information to inquirers interested in the export of goods manufactured in the United Kingdom. Manufacturers and traders desirous of seeking new markets in the Dominions, India, and the Colonies require information in the shape of trade figures, price figures, customs tariffs and regulations, freights and shipping rates, and local market conditions. In all these matters the Division is ready to give information and advice, having at its command the latest and most up-to-date information available. So, too, it is ready to assist in obtaining suitable agents overseas, to advise on the commercial customs, salesmanship and publicity methods obtaining in the Empire overseas, and has at hand lists of overseas importers classified according to the goods in which they deal. A complementary activity of the Division is the referring of overseas buyers to such manufacturers in the United Kingdom as they may wish to do business with.

The Division is served by a network of representatives throughout the Empire, there being no fewer than fifteen

<sup>1</sup> *Dominions Office and Colonial Office List*, 1934, p. xi.

Trade Commissioners in the Dominions and India alone. These are stationed as follows.

*Canada and Newfoundland*

H.M. Senior Trade Commissioner, assisted by a second Commissioner, Montreal.

H.M. Trade Commissioner, Toronto.

H.M. Trade Commissioner, Vancouver.

H.M. Trade Commissioner, Winnipeg.

*Australia*

H.M. Senior Trade Commissioner, Sydney.

H.M. Trade Commissioner, Melbourne.

*New Zealand*

H.M. Trade Commissioner, Wellington.

*Union of South Africa*

H.M. Senior Trade Commissioner, Capetown.

H.M. Trade Commissioner, Durban.

H.M. Trade Commissioner, Johannesburg.

*Irish Free State*

United Kingdom Trade Commissioner, Dublin.

*Newfoundland*

H.M. Trade Commissioners in Montreal act also on behalf of Newfoundland.

*Southern Rhodesia*

H.M. Trade Commissioner in the Union of South Africa also acts as the Imperial Trade Representative in Southern Rhodesia (Bulawayo).

*India.*

H.M. Senior Trade Commissioner, assisted by a second Commissioner, Calcutta.

H.M. Trade Commissioner, Bombay.<sup>1</sup>

<sup>1</sup> H.M. Trade Commissioners in India act also on behalf of Ceylon. The other Trade Commissioners are stationed in East Africa (Kenya), West Indies (Trinidad and Jamaica), and Malaya (Singapore). There are, in addition, Imperial Trade Correspondents in each of the Dominions and in most Colonies and Protectorates.

THE HIGH COMMISSIONER IN CANADA FOR HIS MAJESTY'S  
GOVERNMENT IN THE UNITED KINGDOM

The office of High Commissioner in Canada for His Majesty's Government in the United Kingdom was established in 1928, in pursuance of the Balfour Report which emphasized at the same time the absence of authoritative representation of the Government of the United Kingdom in the Dominions and the necessity for personal contact in the conduct of relations. The Prime Minister of Canada speaking of the new office in the Canadian House of Commons on 28th May, 1928, said:

I believe that the opportunity for personal conference with a representative of the British Government on many matters that arise between that Government and our own will prove an effective means of avoiding possibilities of misunderstanding that occur so frequently when communications are conducted in writing.<sup>1</sup>

In answer to a question in the House of Commons, the then Secretary of State for Dominion Affairs (Rt. Hon. L. S. Amery) stated on 21st May, 1928, that it was not at present possible to define the functions of the High Commissioner in detail, but that their general character was indicated by the Resolution adopted in the Balfour Report;<sup>2</sup> all the interests of the Government of the United Kingdom would come within his province, and doubtless he would be of great assistance to the Trade Commissioner.

The High Commissioner is assisted by two Secretaries, appointed from the Foreign Office and the Dominions Office respectively. His headquarters are in Ottawa.

REPRESENTATIVE IN THE COMMONWEALTH OF AUSTRALIA  
OF HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM

This post was established in 1931 pending the appointment of a High Commissioner. As in Canada, the necessity for its establishment arose from the limitation of the functions of the Governor-General following the Imperial

<sup>1</sup> *Journal of the Parliaments of the Empire*, vol. ix, No. 3, July, 1928, p. 654.

<sup>2</sup> Quoted on p. 2, above.

Conference in 1926, in consequence of which there was no representative of the United Kingdom Government in the Commonwealth of Australia. The Representative is stationed in Canberra.

#### THE GOVERNOR-GENERAL OF NEW ZEALAND<sup>1</sup>

As stated above, the Government of New Zealand has not implemented the agreement reached at the Imperial Conference of 1926 to limit the functions of Governors-General.<sup>2</sup> The Governor-General of New Zealand continues, therefore, to combine the two functions of Representative in New Zealand both of His Majesty the King and of His Majesty's Government in the United Kingdom; in this latter capacity he is still the channel of communication between the Governments, and therefore continues to communicate information to the Dominions Office with regard to the course of affairs in New Zealand.

#### HIGH COMMISSIONER IN THE UNION OF SOUTH AFRICA FOR HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM

The office of the High Commissioner for the United Kingdom in the Union of South Africa was also created to meet the situation resulting from the limitation of the functions of the Governor-General by the Imperial Conference of 1926, and to provide a representative of the United Kingdom Government in South Africa. It dates from 21st November, 1930, and corresponds to the office of the Union High Commissioner in London or the High Commissioner for the United Kingdom in Canada. As a channel of communication between his own Government and that of the Union, the High Commissioner discharges some of the functions which, prior to 1927, were performed by the Governor-General, and from 1927 till 1930 by the officer representing the Government of the United Kingdom (cf. Representative in Australia above), who was

<sup>1</sup> See p. 238, below.

<sup>2</sup> See p. 6, above.



also Imperial Secretary to the then High Commissioner for South Africa.<sup>1</sup>

The two High Commissionerships are at present held by the same officer, but the offices are quite distinct even to the extent of having different precedence, uniforms, and office staffs. The holder is appointed to the High Commissionership for Basutoland, the Bechuanaland Protectorate, and Swaziland by His Majesty's Commission; to the High Commissionership for His Majesty's Government by letter from the Secretary of State. His emoluments for both offices are at present provided by the United Kingdom Parliament under the Vote for the High Commissioner for the United Kingdom in South Africa. Normally, when the holder is on leave, the Naval Commander-in-Chief functions as High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland under a dormant commission, while another officer undertakes the work of the High Commissioner for His Majesty's Government.

HIS MAJESTY'S HIGH COMMISSIONER FOR BASUTOLAND, THE  
BECHUANALAND PROTECTORATE, AND SWAZILAND

This office, which used to be held by the Governor-General, was, in 1931, entrusted to another official. Since October, 1923, the duties of the office have been reduced, first by the grant of responsible government to Southern Rhodesia, and then by the transfer of the British South Africa Company's administration in Northern Rhodesia to the Crown in April 1924. The High Commissioner, however, retains some of his previous powers and functions in regard to native legislation in Southern Rhodesia and, in regard to the native reserves there, his approval is required to the appointment, by the Governor-in-Council, of the Minister for Native Affairs and the Chief Native Commissioner.<sup>2</sup> All his functions in Northern Rhodesia lapsed with the appointment of the first Governor in 1924.

<sup>1</sup> Since June 19, 1934, entitled 'His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland' (see below).

<sup>2</sup> See p. 25, above.

His Majesty's High Commissioner thus retains some authority in Southern Rhodesia and represents the King in Basutoland, Swaziland, and the Bechuanaland Protectorate.<sup>1</sup> He conducts the administration of these three native territories through Resident Commissioners, legislates by proclamation, and answers for his administration to the Secretary of State for Dominion Affairs. He is in no sense responsible to the Union Government, though he naturally keeps in closest touch with it.

#### THE GOVERNOR OF NEWFOUNDLAND

In Newfoundland, which is one of the Dominions as defined in the Statute of Westminster, 1931, responsible government has been temporarily suspended and, during this suspension, the Governor is in fact, as well as in name, the head of the administration and as such communicates with, and receives directions from, the Dominions Office.

#### THE GOVERNOR OF SOUTHERN RHODESIA

In Southern Rhodesia, a self-governing colony to which responsible government was granted in 1923, the Governor is not only the King's Representative, but the regular channel of communication between His Majesty's Government in the United Kingdom and the Colonial Government.

### CANADA

#### THE DEPARTMENT OF EXTERNAL AFFAIRS

Before 1909 that part of Canada's foreign relations—a comparatively unimpressive part—which was not administered directly from Downing Street was entrusted to the care of the Canadian Secretary of State. No Department devoted exclusively to international relations was considered necessary until 1909, when the Government decided that the Dominion had attained a position of

<sup>1</sup> Under the Union of South Africa Act, provision is made for the transfer of the three Native Territories (Bechuanaland, Swaziland, and Basutoland) to the Union Government at some future date.

sufficient importance to warrant the establishment of such a Department. As the most important of Canada's relations with other countries were at that time, and still remain, those with the United Kingdom, the designation Foreign Office was obviously unsuitable. Hence the name Department of External Affairs.

It was not until 1912 that the new Department was given a Minister of its own, but in that year the Secretaryship of State for External Affairs was joined by statute to the office of Prime Minister. In the future, however, as Canada's external relations gain in volume and importance, it may not be considered wise that the head of the Government should by law be forced to accept the added burden of the departmental work associated with External Affairs, and in that case a separation will be necessary.

### *Organization*

The Canadian Department of External Affairs consists of the following offices:

Secretary of State for External Affairs.

(Office established 1912, and held by the Prime Minister).

Under-Secretary of State.

Assistant Under-Secretary of State.

Counsellor.

Legal Adviser.

together with the following offices abroad:

London—High Commissioner for Canada in the United Kingdom (Office established 1880).

Washington—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States (Office established 1926).

Paris—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to France (Office established 1928).

Tokyo—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to Japan (Office established 1929).

Geneva—Canadian Advisory Officer, League of Nations (Office established 1924).

Expenses<sup>1</sup> incurred for the Department including the International Joint Commission under the Boundary Waters Treaty with the United States (1909), Conferences abroad, contribution to the Secretariat of the League, &c., together with expenditure of the offices abroad of the Department, have been:

	1930-1	1931-2	1932-3
Department of External Affairs . . . .	\$ 525,631.92	\$ 530,454.08	\$ 678,822.07
High Commissioner's Office . . . .	103,227.84	139,570.31	129,452.81
Canadian Legation, Washington . . .	81,785.45	98,858.82	91,000.15
Canadian Legation, Paris . . . .	78,783.61	82,561.89	75,668.49
Canadian Legation, Tokyo . . . .	78,064.99	78,568.17	71,714.04
Canadian Advisory Officer, League of Nations . . . .	24,637.27	26,370.21	21,905.04
	\$892,131.08	\$956,383.48	\$1,068,562.60

The Department is the central and directing part of the whole External Service. Questions of policy are decided by the Secretary of State for External Affairs and instructions conveyed to the Legations and other offices abroad. Among other things it is the duty of the Department (*a*) to carry on or supervise communications with other British and foreign governments, (*b*) to prepare material in connexion with international and Imperial Conferences, (*c*) to consider policy and prepare material in connexion with the various League of Nations activities, (*d*) to draft, so far as Canada is concerned, treaties and conventions, and (*e*) to deal with the International Joint Commission and other international tribunals. These duties are of course carried out in co-operation with the other Departments of the Government interested in the question at issue, e.g. the

<sup>1</sup> From Auditor-General's *Reports*, 1931, 1932, and 1933.



National Defence Department in disarmament questions, the Fisheries Department in the Sockeye Salmon Treaty, the Interior Department in Niagara Falls water-power matters.

Within the Department an endeavour is being made to effect a definite allotment of duties. The small numbers of the staff and the frequent changes that result from the necessity of sending members of the Department to posts in Legations abroad, have made it impossible to secure the same degree of specialization that exists in older and larger Foreign Offices. Such division as at present exists is partly based on subject-matter, and partly on the governments or other bodies with which the Department has relations. The Assistant Under-Secretary, for example, deals with Consular and Passport matters and the preparation of confidential prints of diplomatic correspondence. The Counsellor, in addition to bearing the chief responsibility for treaty procedure, deals with United States and French questions. The Legal Adviser is charged with the legal work of the Department, advising on questions of international law, legal interpretation of treaties, and references to the International Joint Commission. The First Secretary is concerned chiefly with relations with other parts of the British Commonwealth. The Second Secretary specializes in commercial treaties and commercial relations generally, and deals also with Japanese relations. The senior Third Secretary devotes about half his time to League of Nations matters and, with a junior Third Secretary, assists in any question requiring investigation.

The work of the Accounting, Translating, Coding, Secretarial, and Stenographic Branches is in the main the same as that dealt with by similar branches in other Departments, though the fact that it concerns foreign governments and offices abroad increases the technical difficulties to be surmounted, e.g. by the Accounting, Translation, and Coding Staffs, and makes it necessary that the work of a large section of the staff should be of a confidential character. It may be noted that an attempt is being made

to build up an adequate library on international affairs, which, it is expected, will eventually be available for public, as well as for departmental, consultation.

Admission to the Department is through the medium of examinations held under the auspices of the Civil Service Commission. These examinations are based on those governing entrance to the Foreign Office and the British Diplomatic Service, and consist of a written and an oral test. An increasing measure of weight is being given to the personal factor as ascertained through oral interviews. The Government has the power, in addition, to appoint men by Order in Council, though this power has not been exercised in the cases of the present secretarial staff of the Department. Officers enter as Third Secretaries, and are eligible for promotion to the higher ranks.

### *Functions*

Canada has attained a position of marked and growing international importance, and has become one of the leading countries in industrial production, foreign trade, and political significance. It will be recalled that in determining which countries were to be considered of 'chief industrial importance', and therefore entitled to permanent seats on the Governing Body of the International Labour Conference at Geneva, the official committee of the League ranked Canada fifth, or, on another basis of computation, sixth. Simultaneously with the growth of Canadian international interests, there has come a parallel growth in the extent to which Canada has herself undertaken the management of these interests by the establishment of a special department at Ottawa and a number of offices abroad. Thus the scope of the activities of the Department of External Affairs as a whole has expanded greatly in recent years.

Its duties may be divided roughly into two main classes, questions of governmental policy and the protection of individual interests, though each class shades into the other. Among the first class may be included matters concerning International Arbitration, Defence and Disarmament,

Trade and Tariffs (the Trade and Commerce Department deals with private individuals, the Department of External Affairs with governments), Immigration, Extradition, Double Nationality, Territorial Sovereignty, Boundary Waters disputes, Wireless Communication, international aspects of Taxation, &c. Among the individual issues which most frequently require attention are claims against foreign governments, deportation and immigration difficulties, imprisonment of Canadians abroad, seizure of Canadian vessels and goods, settlement of estates, complaints of discriminatory treatment in trade and taxation.

Replies to requests for information on Canadian affairs constitute a substantial part of the work of the Department, which is also charged with the issue of passports necessitated by the requirements of British and foreign Governments.

The means utilized for the discussion and settlement of the questions which come under the jurisdiction of the Department may be summarized as follows:

1. Communication with individual Governments:

- i. through Canadian Envoys in foreign capitals or the Dominion High Commissioner in London;
- ii. through Foreign Envoys or the British High Commissioner in Ottawa;
- iii. through direct correspondence with the Secretary of State for Dominion Affairs in London and the Ministers of External Affairs of the other Dominions;
- iv. through the British Diplomatic Service, by way of the Dominions and Foreign Offices; or direct.

2. International and Imperial Conferences.

An examination of the Reports of the Department will show the extent to which the Canadian Government has, in recent years, participated in international and Imperial Conferences. The arrangements for attending all such Conferences have been made in all cases through the Department of External Affairs, and the Department or one of its offices abroad has participated in them all. In

the case of the more technical conferences, the participation was of a somewhat formal character, but in the majority questions of policy were involved which were of immediate concern to the Department.

### 3. League of Nations.

Canada was for three years, 1927-30, represented on the Council of the League of Nations and is annually represented in the Assembly and participates in the work of the more important committees.

### 4. Treaties and Conventions.

Special mention may be made of the cases in which the settlement of outstanding questions takes the form of bilateral and multilateral treaties and conventions. The scope of this work may be indicated by the conventions referred to in the Reports of the Department.

### 5. International Joint Commission.

The International Joint Commission for the settlement of boundary waters disputes with the United States, while an independent tribunal, works in close co-operation with the Department which is responsible for the reference of questions to it.

## THE HIGH COMMISSIONER FOR CANADA IN GREAT BRITAIN

With the federation of the Provinces of British North America in 1867, a new political entity which could not avail itself of the services of the provincial agents was brought into existence. To supplement the ordinary method of communication between the Canadian and United Kingdom Governments (which at that time was by correspondence between the Governor-General and the Secretary of State for the Colonies, and now is between the Secretary of State for External Affairs of Canada and the Secretary of State for Dominion Affairs in Great Britain), the position of High Commissioner for Canada was created in 1880.<sup>1</sup>

<sup>1</sup> See *R.S.C.*, 1927, c. 92.



The duties of the office are defined in the Act as follows:

The High Commissioner shall

- (a) act as representative and resident agent of Canada in Great Britain, and in that capacity execute such powers and perform such duties as are, from time to time, conferred upon and assigned to him by the Governor in Council;
- (b) take the charge, supervision, and control of the immigration offices and agencies in Great Britain, under the Minister of Immigration and Colonization;
- (c) carry out such instructions as he, from time to time, receives from the Governor in Council respecting the commercial, financial, and general interests of Canada in Great Britain and elsewhere.

Sir Alexander Galt was the first Canadian High Commissioner, holding office from 11th May, 1880, until May, 1883, in which year he was succeeded by Sir Charles Tupper; Lord Strathcona and Mount Royal was appointed in 1896. Sir George H. Perley took charge of the High Commissioner's Office in 1914 but was appointed High Commissioner only on 12th October, 1917. The Hon. P. C. Larkin was appointed in February, 1922, and the Hon. G. H. Ferguson, K.C., in December, 1930.

### *Organization*

The High Commissioner is assisted by a staff, the head of which is the Secretary of the Office. In addition, the following Canadian Government Departments have representatives at Canada House:

1. Immigration:

Director.

Director, Canadian Official Press Bureau.

Director, Medical Services.

2. Trade and Commerce:

Chief Trade Commissioner.

Canadian Government Exhibition Commissioner.

Canadian Trade Publicity Department.

Fruit Trade Commissioner.

3. Agriculture.

4. Soldiers' Civil Re-establishment.

5. National Revenue:  
Investigator of Values.
6. Public Archives.
7. National Defence.

By an arrangement which came into operation during 1932, the activities of the above officials have been co-ordinated under the High Commissioner, who is thereby enabled to keep a personal supervision on all matters of importance which are being dealt with by the various branches of activity under his control.

### *Functions*

The High Commissioner's Office is the centre of all the activities of the Federal Government of Canada in the United Kingdom, and its work accordingly covers a wide field, including:

1. Duties as a channel of communication between His Majesty's Government in Canada and His Majesty's Government in the United Kingdom, and in obtaining information in London on departmental matters.
2. Activities as agent for the Canadian Government in financial relations with foreign governments in connexion with the repayment of loans and of reparations, and with private firms in the purchase of supplies.
3. Supplying information to British inquirers as to Canadian agricultural and industrial resources, tariff and taxation laws and other conditions, including the publicity service offered by the national resources and industrial information branch of the office.
4. Providing assistance to Canadian business men and to Canadian tourists desiring to secure access to notable ceremonies and institutions.
5. Supplying delegates to International Conferences and to meetings of Inter-Commonwealth Committees, such as the Imperial and International Communications Ltd., the Empire Timber Committee, the Imperial Institute, the Imperial War Graves Commission, the Imperial Shipping Committee, and the Imperial Economic Committee.
6. Keeping the Department in Ottawa informed as to political and economic developments in the British Isles.

In general it may be said that the scope of the duties of the High Commissioner in London has been constantly widening. Hitherto when the Governments of Canada and the United Kingdom wished to consult on some matter of common concern, the communications would customarily be between the Dominions Office and the Department of External Affairs. The present tendency, however, is in the direction of greater utilization of the High Commissioner's Office.

#### CANADIAN AIR LIAISON OFFICER IN LONDON

The Office of the Royal Canadian Air Force Liaison Officer in the Air Ministry was permanently established in 1923, and exists for the maintenance of close liaison between the Royal Air Force and the Royal Canadian Air Force. The Officer appointed holds a commission in the Royal Canadian Air Force and is attached to the Directorate of Organization and Staff Duties. The Office comes under the wing of the High Commissioner and all matters involving policy and finance are submitted through the High Commissioner, but, on questions exclusively concerning organization and routine, communications are forwarded direct to the Senior Air Officer, Royal Canadian Air Force, Ottawa.

#### AGENTS-GENERAL IN THE UNITED KINGDOM FOR INDIVIDUAL PROVINCES

The older Provinces of Quebec, Ontario, and British Columbia still adhere to the practice of former days and are represented in London, the two former by Agents-General, and the latter at present by an Acting Agent-General. These officials are appointed by the Legislatures of the Provinces under general authority given in the British North America Act, and act for the Provincial Governments in capacities very similar to that of the High Commissioner, except, perhaps, that their duties have tended to become of a business rather than a diplomatic nature.

## AUSTRALIA

## PRIME MINISTER'S DEPARTMENT

The Prime Minister's Department in Australia is the official channel of communication with the United Kingdom and the other Dominion Governments, although many of the questions are handled by the Department of External Affairs, if political, and the Department of Commerce or of Trade and Customs, if commercial. Subordinate to the Prime Minister's Department are the High Commissioner in the United Kingdom, the Official Secretary for Australia in the United States (New York), the Trade Representative in France (Paris), and the Trade Commissioner in Canada (Toronto). The three last-named offices are of a purely commercial character.

The Department administers Papua (formerly British New Guinea); Norfolk Island; the Territory of New Guinea (by mandate of the League of Nations); Nauru (under British Empire mandate administered jointly by the Commonwealth, the United Kingdom, and New Zealand).

## DEPARTMENT OF EXTERNAL AFFAIRS

The Department of External Affairs in Australia deals with all questions affecting foreign and inter-Dominion political relations. The present Minister for External Affairs is also Attorney-General and Minister for Industry. (Previously the Prime Minister was also Minister for External Affairs.)

In 1924, when question arose as to the policy to be adopted by Australia with regard to information and consultation relating to External Affairs, the Commonwealth Government decided<sup>1</sup> that they would not appoint diplomatic representatives abroad but would continue to obtain information and to conduct negotiations through the Foreign Office of the United Kingdom and the existing British diplomatic representatives. This necessitated a closer liaison between the Foreign Office and the

<sup>1</sup> After a visit to Australia by Mr. A. W. Allen Leeper of the Foreign Office (see p. 228, below).

Commonwealth Government, which was effected by the establishment of an External Affairs Branch in the High Commissioner's Office in London under the control of an officer of such standing and character as to enjoy the confidence of the Foreign Office; such a representative is in a position to keep his Minister informed in regard to current events in connexion with foreign policy, and so to amplify the information which is conveyed to the Prime Minister regularly by cable and dispatch from the Dominions Office.

### *Organization and Functions*

The Officers of the Commonwealth Department on External Affairs as at present constituted are accordingly:

- a. The Secretary (who is also Secretary to the Prime Minister's Department), an Assistant Secretary, who is in charge of the work of the Department and deals also with foreign relations, and an Assistant who deals with League of Nations matters.
- b. The External Affairs Officer in London, who is attached to the staff of the High Commissioner for purposes of consultation on inter-Imperial and foreign affairs. On such matters he communicates, on behalf of the High Commissioner, direct with the Department of External Affairs.

The Department of External Affairs in Canberra is responsible for keeping up to date all information regarding matters affecting Australian foreign relations and political relations with the other Dominions, and is also responsible for submitting, when necessary, opinions on matters which have come under the consideration of the Government. The Foreign Relations Section deals with what may be described as foreign relations proper, including League of Nations matters of a political character, and conferences of a political character, e.g. those which have dealt with the question of Reparations. The League of Nations Section deals with all the multifarious matters dealt with by the League of Nations except those which are essentially political, such as disarmament and security and arbitration questions. This section also deals with all international conferences other than those of a political character.



The office in Canberra is supplied regularly with a large amount of information through the Dominions Office, but the essential link between the office in Canberra and the outside world is the External Affairs Officer in London.<sup>1</sup> This Officer has direct access to and is in constant touch with the Foreign Office, the Dominions Office, and the other Departments of State, and so is in a position to keep the office in Canberra fully and regularly informed. He is available when necessary for informal discussions with the Foreign Office, or to act as Australian Observer in negotiations intimately concerning Australia and to go to Geneva as Adviser on political questions before the League of Nations.

THE HIGH COMMISSIONER FOR THE COMMONWEALTH OF  
AUSTRALIA IN THE UNITED KINGDOM

The office of the High Commissioner of the Australian Commonwealth in the United Kingdom was created by the High Commissioner Act of the Federal Parliament (No. 22 of 1909), assented to on 13th December, 1909. The first High Commissioner (the late Sir G. H. Reid) took up his duties in February, 1910, at offices in Victoria Street, Westminster. The foundation stone of Australia House was laid by His Majesty the King on 24th July, 1913, on a site in the Strand purchased from the London County Council, and the completed building was opened by His Majesty on 3rd August, 1918.

The holders of the office of High Commissioner to date have been: the Rt. Hon. Sir G. H. Reid, 1910-15; the Rt. Hon. Andrew Fisher, 1916-21; the Rt. Hon. Sir Joseph Cook, 1921-27; Major-General Sir Granville de Laune Ryrie, 1927-32. The present High Commissioner is the Rt. Hon. S. M. Bruce, C.H., appointed in 1933.

In September, 1932, shortly after the conclusion of Sir Granville Ryrie's term of office, the Rt. Hon. S. M. Bruce, after attending the Imperial Conference at Ottawa, arrived in London and, in addition to his duties as Minister

<sup>1</sup> See Imperial Conference, 1930; *Summary of Proceedings*, Cmd. 3717, p. 28.

without portfolio, took over the powers and functions of the High Commissioner, pursuant to the provisions of the High Commissioner Act of 1932.<sup>1</sup> The operation of this Act by which a Minister might be authorized to exercise the powers of the High Commissioner is limited to two years. It was not intended to make a permanent change in the status of the High Commissioner. The presence of a Minister in London was opportune for the conduct of important financial operations, but, upon their completion, Mr. Bruce resigned from the Cabinet, and was appointed High Commissioner, from 7th October, 1933, for the usual term of five years.

### *Organization*

The High Commissioner is assisted by a secretarial and technical staff under the control of an Official Secretary. The organization includes an Economic Adviser, a Finance Branch, an Intelligence Branch, a Commercial Branch, a Veterinary Officer, a Dairy Officer, a War Pensions Branch, a Customs Branch and officers appointed to assist the High Commissioner in matters relating to the Naval, Military, and Air Forces of Australia, and External Affairs. These four officers are required to keep in close touch with the Foreign Office, Admiralty, War Office, and Air Ministry in the United Kingdom in order to facilitate co-operation between the United Kingdom and Australia. On matters of routine they communicate directly with their Departments in Australia.

### *Functions*

The functions of the office of the High Commissioner for the Commonwealth of Australia may be summarized as follows:

- i. Whilst the normal official channel of communication between the Commonwealth Government and the Government of the United Kingdom is through the Prime Minister of Australia to the Secretary of State for Dominion Affairs, the

<sup>1</sup> See p. 227, below.

services of the High Commissioner are constantly utilized in negotiations between those Governments, and the tendency is to increase this personal consultation.

- ii. The High Commissioner acts as Agent for the Commonwealth in negotiating loans and in arranging for their repayment, which is actually effected by the Commonwealth Bank.
- iii. The High Commissioner's Office gives information in answer to inquiries regarding Australian natural and industrial resources and Commonwealth matters generally, and provides information and advice to Australian business men who have trade relations with or contemplate opening up business with the United Kingdom.
- iv. It supplies the Commonwealth Government with reports regarding market conditions in the United Kingdom and generally assists in furthering the export business of Australia.

#### AGENTS-GENERAL IN THE UNITED KINGDOM FOR THE INDIVIDUAL STATES OF THE COMMONWEALTH

When the office of High Commissioner for the Commonwealth was established in 1909, the framers of the Act foreshadowed the possibility that in the course of time the new office would eliminate the need for separate State representation in London.<sup>1</sup> This anticipation has not been realized, however, and the six constituent States (New South Wales, South Australia, Tasmania, Victoria, Queensland, and Western Australia) are still separately represented in London.

#### NEW ZEALAND

##### PRIME MINISTER'S DEPARTMENT

All communications with His Majesty's Government in the United Kingdom, whatever the subject-matter, pass through the Imperial Affairs Branch of the Prime Minister's Office and are forwarded by the Prime Minister through the Governor-General of the Dominion (who, as stated above, continues to be the official representative of the Government of the United Kingdom as well as of His

<sup>1</sup> See High Commissioner Act, 1909, Section 5.

Majesty the King) to the Secretary of State for Dominion Affairs. The latter, when the matter involves foreign relations, confers with the Foreign Office. Communications and information from His Majesty's Government in the United Kingdom come to the New Zealand Government through the same channels. It is not the practice to keep the High Commissioner for New Zealand in London informed of these communications, except where the New Zealand Government requires him to take action in, or to expedite, any particular matter.

Communications with other Dominions are generally carried on between Prime Minister and Prime Minister.

#### DEPARTMENT OF EXTERNAL AFFAIRS

Minister of External Affairs—Portfolio customarily held by the Prime Minister.

Secretary, who is also Imperial Affairs Officer, Prime Minister's Department.

The External Affairs Act, 1919, as amended by the External Affairs Amendment Act, 1920, provides for the appointment of a Minister of External Affairs, a Secretary for External Affairs, and a staff of the Department.

The Minister of External Affairs, which office, as stated above, is held at present, and generally as a matter of custom, by the Prime Minister, is charged with the administration of the government of any territory out of New Zealand<sup>1</sup> which may at any time be a dependency of New Zealand or otherwise be under the jurisdiction of the Government of New Zealand. As regards such dependencies or territories the Department of External Affairs is concerned at present with the administration only of Western Samoa, for which New Zealand holds a mandate from the League of Nations, and Niue.

The Minister is also charged with such other administrative functions relative to the external affairs of

<sup>1</sup> The Cook Islands are an exception to this rule. The Island of Niue is administered by the Minister of External Affairs, but the rest of the group are administered by a special Minister for the Cook Islands.

the Dominion of New Zealand as the Governor-General in exercise of his lawful authority may think fit to entrust to him.

In executing the documents relating to Foreign Affairs and Full Powers or Ratifications, the Prime Minister signs both as Prime Minister and Minister of External Affairs.

Generally speaking New Zealand's relations with foreign nations are conducted through His Majesty's Government in the United Kingdom and the diplomatic representatives of that Government, and in such cases communications to foreign governments go through the following channels: His Excellency the Governor-General, the Secretary of State for Dominion Affairs, the Secretary of State for Foreign Affairs, and the British Ambassador or Minister in the foreign State concerned. Such communications are largely confined to matters of general international importance. There are three exceptions to this general rule of communication through His Majesty's Government in the United Kingdom:

1. All League questions are handled directly between His Majesty's Government in New Zealand and the Secretary-General of the League.
2. In commercial matters from time to time direct negotiations have taken place with foreign countries. Two instances of direct communication are the exchange of notes with Japan<sup>1</sup> and the recent commercial negotiations with the Economic Union of Belgium and Luxembourg.<sup>2</sup>
3. At international conferences in which New Zealand is concerned the Dominion is represented separately and individually, for example, at the London Naval Conference.

Apart, however, from affairs of general international

<sup>1</sup> N.Z. Parliamentary Paper, A 6, 1928.

<sup>2</sup> Trade Arrangement (New Zealand and Belgium) Ratification Act, No. 24, 1933.



importance such as the League of Nations, the Briand-Kellogg Pact, Reparations, Disarmament, &c., the impact of New Zealand or New Zealanders on world affairs or on nationals of foreign Powers is limited, and though the Diplomatic and Consular representatives of His Majesty's Government in the United Kingdom are at the service of His Majesty's Government in New Zealand and function in respect of foreign passports, visas, &c. (which are dealt with by the New Zealand Department of Internal Affairs) in exactly the same manner as in the case of any other British territory, the necessity for utilizing their services directly arises very rarely.

The Government is advised on legal matters by the Solicitor-General and the Crown Law Office in London.

The cost of the Department for 1932-3 was £83,094, and the estimates for the year 1933-4 amount to £87,700.

#### *Official Representation Abroad*

New Zealand has no permanent official representing her at Geneva; the New Zealand Government usually finds it convenient to appoint the High Commissioner in London to represent her at the meetings of the League of Nations.

The official representatives of New Zealand abroad are nearly all Tourist or Trade Commissioners, the principal being a Tourist and Trade Commissioner in the Commonwealth of Australia, stationed in Sydney, with a branch office at Melbourne; a Trade Commissioner for both Canada and the United States, stationed at Toronto; an official representative of the New Zealand Customs Department for Canada and the United States stationed at New York; a Government Agent at Vancouver; and a Resident Agent at San Francisco.

The United Kingdom, Canada, and the United States of America are represented in New Zealand by Trade Commissioners; the Canadian Trade Commissioner is stationed at Auckland, the other two in Wellington.

## THE HIGH COMMISSIONER FOR NEW ZEALAND IN THE UNITED KINGDOM

The High Commissioner for New Zealand is appointed by the Governor-General in Council for a period not exceeding three years. He is eligible for reappointment, is exempt from the Civil Service Acts, and receives a salary of £2,000 a year (subject at present to a 10 per cent. reduction) and travelling allowance not to exceed £400 in any one financial year. He may not join the directorate or advisory board of any public company or trading corporation, whether registered or not.

*Organization*

The High Commissioner is assisted by the following:

Secretary and Loan and Stock Agent.

Publicity and Exhibition Officer.

Trade and Produce Officer.

Librarian and Intelligence Officer.

Finance Officer, Accountant, and Loan and Stock Agent.

Audit Officer.

Customs Department Representative.

Dairy Produce Officer.

Liaison Officer, Department of Scientific and Industrial Research.<sup>1</sup>

*Functions*

The duties of the High Commissioner are to:

- a. Act as representative of New Zealand in the United Kingdom and to exercise such powers and perform such duties as are conferred upon and assigned to him by the Governor-General.
- b. Carry out such instructions as he receives from the Government respecting the commercial and financial and general interests of New Zealand in the United Kingdom and elsewhere.

On 24th August, 1928, the Prime Minister of New Zealand made a statement in the House of Representatives as to the question discussed at the Imperial Conference

<sup>1</sup> For note on this officer, see p. 206.

of a more permanent liaison between various parts of the Empire. He said that

various systems had been thought out and the one that New Zealand was trying out was to have a member of the Foreign Office in New Zealand, and for New Zealand to select a member of the New Zealand Civil Service to be drafted home as a Liaison Officer to the High Commissioner. With such an arrangement the High Commissioner, through that Officer, could get additional information from the Foreign Office and other Departments of State; and the Foreign Office, on the other hand, through the Prime Minister's office in New Zealand, could get fuller and further information as to the general attitude of the Dominion upon foreign questions in the Pacific or elsewhere. . . . Mr. Nichols, a Liaison Officer appointed by the Foreign Office, had been able to save the Government hundreds of pounds in cable expenses by the information he could supply.<sup>1</sup>

Mr. P. B. B. Nichols was appointed on 26th January, 1928, but returned to England on 2nd July, 1930, and has not been replaced. His salary was paid by the United Kingdom Government.

Criticism of the proposal to appoint a New Zealand Liaison Officer to London was made in the House of Representatives on 6th July, 1928, by Sir James Allen, who said that

in his judgement the proper and safest course to pursue was to allow their representative in London to become their mouthpiece as far as they possibly could. That representative was the High Commissioner, and to establish another representative responsible to the Prime Minister direct was a false move.<sup>2</sup>

The appointment of the proposed Liaison Officer has never yet been carried out.

The estimated expenditure for the Office of the High Commissioner for the year 1932-3 was £44,619,<sup>3</sup> and for the year 1934-5 amounts to £35,966.

<sup>1</sup> *Journal of Parliaments of the Empire*, vol. x, No. 1, pp. 115-16.

<sup>2</sup> *Ibid.*, vol. ix, No. 4, p. 1008.

<sup>3</sup> This figure contained certain payments which were attributable to the previous financial year.

## SOUTH AFRICA

## DEPARTMENT OF EXTERNAL AFFAIRS

The Ministry of External Affairs was first constituted on 1st June, 1927, the first holder of the office being the present Prime Minister of the Union, the Hon. J. B. M. Hertzog. The Department is charged with the duty of communicating with His Majesty's Governments and Administrations in the British Empire, with foreign governments, and with the League of Nations.<sup>1</sup> It is organized in four sections, one dealing with External Affairs generally, another with League of Nations matters, a third with coding, and the last with accounts.

Though young in years the Department is fast achieving a place of prominence in South African Administration due, in large measure, to South Africa's acceptance of her own responsibilities<sup>2</sup> in the international sphere which is resulting in the progressive establishment of independent representation abroad in respect of affairs relating to the Union of South Africa, which hitherto have been conducted through the ordinary British diplomatic channels. The diplomatic representatives of the Union both in the United Kingdom and in foreign countries are charged with the care of South African interests in their respective spheres. In addition to his functions as the official channel of diplomatic communication and negotiation between the Union Government and the Government to which he is accredited and the innumerable routine duties in connexion with passports, visas, and kindred international amenities which devolve upon him, each Union Minister abroad is an important factor in the extension of South African trade, the concerns of which occupy no small proportion of his time. Accordingly the Department of External Affairs, as that responsible for the direction and

<sup>1</sup> The Prime Minister is responsible for communications with the mandated territory of South-West Africa. The exercise of this mandate is vested in the Governor-General who delegates his power to an administrator appointed by the Union Government.

<sup>2</sup> See p. 78 for a full list of the Union's present and prospective representatives abroad.

co-ordination of these many activities, is quickly expanding both in complexity and importance.

For purposes of consultation in inter-Imperial and foreign affairs and to keep the Department in the Union fully informed on such matters, the High Commissioner in the United Kingdom has on his staff a special Political Secretary, a member of the staff of the Department of External Affairs, who communicates on behalf of the High Commissioner with that Department.

The total expenditure for 1932-3 was £74,716; that for 1933-4<sup>1</sup> was £92,360, allocated as follows:

Department of External Affairs . . . . .	£18,612
League of Nations . . . . .	29,010 <sup>2</sup>
Legation at Rome . . . . .	11,094
Legation at Washington . . . . .	12,882
Legation at The Hague including Consulate at Hamburg	14,573
Consulate at Lourenço Marques . . . . .	4,792
Office of Political Secretary to the High Commissioner	1,397
	<hr/> £92,360 <hr/>

### *Organization*

The personnel of the Department consists of the following:

Prime Minister and Minister for External Affairs.

Secretary to the Prime Minister and Secretary for External Affairs.

Under-Secretary to the Prime Minister and Under-Secretary for External Affairs, and Clerk of Executive Council.

together with the following offices abroad:

London—High Commissioner for the Union in the United Kingdom.

The Hague—Envoy Extraordinary and Minister Plenipotentiary to Holland.

Commercial Secretary.

<sup>1</sup> Estimates for year ending 31st March, 1934.

<sup>2</sup> This includes the Union's annual contribution of £19,560.



Rome—Envoy Extraordinary and Minister Plenipotentiary to Italy.

Commercial Secretary.

Washington—Envoy Extraordinary and Minister Plenipotentiary to the United States.

Geneva—Accredited Representative to the League of Nations.

Lourenço Marques—Consul-General.

Hamburg—Consul.

Jerusalem—Commissioner for the Union in Palestine.

Nairobi—Commissioner for the Union in British East Africa.

There is also a Trade Commissioner for the Union in Montreal, and there are Hon. Trade Commissioners in Rotterdam, Oslo, Genoa, Paris, Gothenburg, San Francisco, Vancouver.

#### HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA IN THE UNITED KINGDOM

The office of High Commissioner was created by Act No. 3 of 1911, and its functions are divided broadly as between political affairs, trade, railway, and publicity and general administration.

The principal sub-officers are:

Political Secretary.

Secretary.

Trade Commissioner.

Director, Publicity and Travel Bureau.

Advisory Engineer.

Accountant.

The office exists for the representation of the Government of the Union in the United Kingdom and to do service as an agency of the Union in London for financial, commercial, and other purposes, including service on behalf of the South African Railways and Harbour Administration, the Provinces, the Electricity Supply Commission, and the South African Iron and Steel Corporation, Ltd.

The expenditure of the office for the year 1933-4 amounted to £65,949.

## IRISH FREE STATE

## THE DEPARTMENT OF EXTERNAL AFFAIRS

The present Free State Department of External Affairs had its origin in the Ministry for Foreign Affairs set up by Dáil Eireann prior to the Anglo-Irish Treaty in January, 1919, which was followed by the Ministry of External Affairs of the Provisional Government. The Department was given its present designation by the Ministries and Secretaries Act, 1924.

*Organization*

The President of the Irish Free State is the present Minister for External Affairs.

The principal officers of the Department are:

The Secretary.

The Assistant Secretary.

The Legal Adviser.

with the following offices abroad:

London—The High Commissioner in Great Britain.

The Secretary to the High Commissioner in Great Britain.

Washington—Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Rome—Envoy Extraordinary and Minister Plenipotentiary to the Holy See.

Paris—Envoy Extraordinary and Minister Plenipotentiary to France and Belgium.

Berlin—Envoy Extraordinary and Minister Plenipotentiary to Germany.

Geneva—Permanent Delegate accredited to the League of Nations.

New York—Consul-General.

Boston (Mass.)—Consul.

*Function*

The function of the Department is the administration of public services in connexion with communications and transactions with other Governments, appointment of diplomatic and consular representatives abroad, responsibility for international amenities and the grants of passports and visas. The Department is in the first instance the normal, and in practice the only, channel of communication between the Executive Council of the Free State and the Governments of the United Kingdom and the Dominions. It is the competent authority for all questions relating to inter-Imperial relations, legal, political, and economic. The representation of the Free State at Imperial Conferences has in increasing measure devolved on the head of this Department. The scope of the Department further includes all matters connected with commercial and financial relations, trade treaties, deportation, extradition, and repatriation, the administration of estates of nationals deceased abroad, the legalization of documents, and the registration of Irish citizens.

It should be noted that in 1931 the right of the Free State was established to have its own seal for ratifying treaties so that the formal intervention of the British Government, which was necessary before the Great Seal<sup>1</sup> could be used for such purpose, might be dispensed with. This right is of fundamental importance, for it removes a power which the British Government formerly possessed in law of securing consideration for any proposed action which might injure the rights of other Dominions or of the United Kingdom.

The estimated expenditure of the Department for the year 1933-4 was £15,387, and for the year 1934-5 amounts to £15,792.<sup>2</sup>

<sup>1</sup> For the use of the Great Seal of the Realm in the negotiation and ratification of Treaties by the Dominions, see Part II, section 2, p. 137, below.

<sup>2</sup> The actual figure of the estimate is £20,792, but this includes £5,000 as advance for the purchase of stamps from the Revenue Commissioners for the collection of fees for the issue and endorsement of passports and for consular services.

## THE OFFICE OF THE HIGH COMMISSIONER IN THE UNITED KINGDOM

The High Commissioner is the official representative of the Irish Free State in the United Kingdom. All diplomatic and trade negotiations and inter-departmental communications between the two Governments pass through his hands. He also acts as the official representative of the Irish Free State at such conferences as the Department of External Affairs may require.

*Organization*

Under the High Commissioner, and controlling the staff of the office, are:

The Secretary.

The Higher Executive Officer.

The Trade Officer.

Broadly speaking, the office is divided into two sections, (i) the Secretariat, and (ii) the Trade branch.

i. The Secretariat consists primarily of those engaged in facilitating the progress of diplomatic communications between the Irish Free State and the United Kingdom and, in addition, performs those special duties of inter-departmental liaison which, in the offices of the High Commissioners of the more distant Dominions, tend to be confided to special liaison officers.

ii. The Trade Branch of the office of the High Commissioner is primarily concerned with promoting the marketing of Irish produce in the United Kingdom. It is responsible for all official publicity and exhibitions relating thereto. This Branch also supplies information as to Irish agricultural and industrial resources, tariffs and trade regulations and related matters.

The estimated expenditure for the office of the High Commissioner for the year 1933-4 was £8,964, and for the year 1934-5 amounts to £9,812.

## NEWFOUNDLAND

## DEPARTMENT OF HOME AFFAIRS

Prior to 1934, the conduct of external affairs in Newfoundland was one of the functions of the Department of the Secretary of State, but with the assumption of office by

the Commission of Government on 14th February, 1934, the whole machinery of administration was reorganized and external affairs are now conducted by the Department of Home Affairs under the Commissioner for Home Affairs.

Departmental communications of a subordinate character from a Government Department in Newfoundland to a Government Department in the United Kingdom are sent direct to the Department concerned, but communications of State importance take the form of Governor's Dispatches and are addressed to the Secretary of State for Dominion Affairs. Prior to the discontinuance of the office of High Commissioner on 30th June, 1934, departmental communications were transmitted through the High Commissioner in London and copies of most of the Governor's Dispatches were sent to him for information.

Communications between the Government of Newfoundland and any other Dominion are sent direct to the government concerned.

Communications with foreign Governments fall naturally within the category of matters of State and so proceed direct from the Governor to the Dominions Office and then on, through the Foreign Office, to the Governments concerned. Before 30th June, 1934, communications of lesser interest bearing on foreign relations might originate in the Department of Home Affairs and be sent through the High Commissioner to the Dominions Office and so to the Foreign Office.

#### *Organization*

The chief officers of the Department are:

The Commissioner for Home Affairs.

The Secretary.

THE OFFICE OF HIGH COMMISSIONER FOR NEWFOUNDLAND  
IN THE UNITED KINGDOM (*discontinued 30th June, 1934*)

A High Commissioner's office for Newfoundland was first opened in London in 1918, and was later given statutory foundation by the High Commissioner Act, 1921.



The office of High Commissioner has been held by Sir Edgar Bowring (1918-22), Captain Victor Gordon (Acting, 1922-3; in full office, 1923-8), and Sir John R. Bennett (1928). The High Commissionership was then vacant for over three years, but in 1932 Mr. D. James Davies, C.B.E., was appointed Acting High Commissioner, holding office until May, 1933. Sir Edgar Bowring was then reappointed and held office until its discontinuance on 30th June, 1934.

### *Organization*

The chief officers under the High Commissioner were:

The Secretary.

The Assistant Secretary and Accountant.

### *Functions*

The main functions of the office of High Commissioner were the following:

- i. The High Commissioner was the official agent for the Government of Newfoundland in the United Kingdom and the official link between the respective Government Departments.
- ii. The office disseminated information respecting Newfoundland legislation, passports, customs duties, taxation laws, trade regulations, natural resources, and financial and business conditions.
- iii. The High Commissioner or members of his staff served on the Imperial Economic Committee, the Imperial War Graves Commission, the Board of Trade Advisory Committee, the Board of Governors of the Imperial Institute, the Empire Timbers Committee and lesser bodies.

### TRADE COMMISSIONER FOR NEWFOUNDLAND IN THE UNITED KINGDOM (*appointed 1st July, 1934*)

In May, 1934, the Commission of Government in Newfoundland intimated its intention of abolishing the office of High Commissioner, which was accordingly discontinued as from 30th June, 1934. The High Commissioner's place has been taken by a Trade Commissioner who will confine himself exclusively to matters of a com-

mercial significance. With the resumption of self-government the entire position will doubtless be reviewed.

### SOUTHERN RHODESIA

#### CONDUCT OF EXTERNAL AFFAIRS

The conduct of external affairs is the joint responsibility of the Department of Internal Affairs and the Department of Finance which are quite distinct from one another, being separately organized and responsible to different ministerial heads. This complexity in the maintenance of external relations arises from the fact that the office of the High Commissioner for Southern Rhodesia in the United Kingdom is attached somewhat anomalously to the Department of Finance: hence that Department cannot avoid maintaining a close interest in the conduct of external affairs despite the fact that the bulk of the communications originate in the Department of Internal Affairs which is the Department most practically concerned.

All communications with the Government of the United Kingdom, with the exception of Governor's Dispatches, are sent through the High Commissioner in London to the appropriate Secretary of State. In consulting with any of the other Dominions, the Government of Southern Rhodesia communicates direct with the government concerned. Any communications with foreign governments are forwarded by the Governor in Council through the Dominions Office to the Secretary of State for Foreign Affairs and thus take effect through the ordinary channels of the British Diplomatic Service. Passports are issued in Southern Rhodesia by the Department of Internal Affairs and in London they are secured by the High Commissioner through the appropriate United Kingdom office.

#### THE OFFICE OF THE HIGH COMMISSIONER IN THE UNITED KINGDOM

The office of the High Commissioner for Southern Rhodesia in the United Kingdom was established in October, 1924, a year after the grant of responsible government to the Colony (September, 1923).

The first High Commissioner was Sir Francis Newton, K.C.M.G., C.V.O. (1924-30), and the present occupant of the office is the Hon. J. W. Downie, C.M.G.

### *Organization*

The High Commissioner has, under his immediate direction, the following sub-officers:

The Official Secretary.  
Land Settlement Officer.  
Accountant.  
Publicity Officer.  
Buying and Shipping Officer.

### *Functions*

The High Commissioner is the official representative of the Colonial Government in the United Kingdom and the work of his office covers a very wide field.

- i. It is the official channel of communication between His Majesty's Government in Southern Rhodesia and His Majesty's Government in the United Kingdom.
- ii. It acts as the agent of the Colonial Government in arranging the raising of loans and their repayment.
- iii. It supplies information to all inquirers as to Southern Rhodesian agricultural and industrial resources, tariff laws and trade regulations: it also has charge of all official publicity for the promotion of further markets for the colony's products in the United Kingdom.
- iv. It provides assistance for business men and tourists from Southern Rhodesia desiring to secure access to notable ceremonies and institutions.
- v. It supplies delegates to such Imperial and international committees and conferences as the Colonial Government may require.
- vi. It effects the payment of pensions to retired Civil Servants and to retired officers of the British South Africa Police.
- vii. It acts as an immigration and land settlement agency on behalf of the Rhodesian Government.
- viii. It obtains information in London on matters of Imperial and foreign concern and keeps the Government of Southern

Rhodesia fully informed thereon. In general it may be said that the scope of the functions of the office have been constantly widening, inter-governmental communications and trade negotiations being more and more handled through the agency of this office.

The estimated expenditure for the office of the High Commissioner for the year 1933-4 was £18,536, and for the year 1934-5 amounts to £20,120.

### C. India and the Conduct of Foreign and Inter-Imperial Politics

The present situation regarding the Constitution of India necessitates a somewhat different treatment from that accorded to the Dominions; and it has seemed inadvisable to describe in detail the existing administrative machinery in India since the future of such machinery is dependent on development with regard to the new Constitution.

The plan has, therefore, been adopted of quoting such descriptions from the Simon Report and from the White Paper of 15th March, 1933,<sup>1</sup> as are directly relevant to the conduct of foreign and inter-Imperial politics.

#### *The Existing System*

According to memoranda submitted to the Simon Commission the position with regard to these matters is as follows:

In the spheres of foreign and 'inter-Imperial' policy the task of co-ordination between the Governor-General in Council and His Majesty's Government falls to the Secretary of State. He has first-hand knowledge of the policy of His Majesty's Government, and it is his function to ensure that in matters of high policy the British policy is adhered to, but that 'the maximum possible effect, consistent with this primary requirement, is given to the Government of India's view'<sup>2</sup>. . . .

It is obvious that India, under her present Constitution, cannot have a separate foreign policy of her own, and that in major questions

<sup>1</sup> *Proposals for Indian Constitutional Reform, Cmd. 4268.*

<sup>2</sup> *Indian Statutory Commission*, vol. v, pp. 1640-1, para. 17.

of foreign policy she must be guided by His Majesty's Government. . . .<sup>1</sup> [In this respect] the position of India is most clearly differentiated from that of the Dominions. It is still recognized that a common policy in foreign affairs between Dominion Governments and His Majesty's Government is very desirable, but it has also long been recognized that the machinery for obtaining it is very imperfect. India here has an advantage, of a kind, over the Dominions in that co-ordination of the views of the Government in India and in Great Britain, and the modifications of the latter to suit the former, does not depend on occasional Imperial Conferences, long-range correspondence, the activities of subordinate liaison officers and the other devices on which the Dominions have to rely. India has a spokesman in the British Cabinet itself, who at each turn of events can represent her interests and the views of her Government, and who can ensure that the greatest possible effect is given to them which is consistent with the wider information and the general policy of the Government at home. But this advantage carries with it a necessary implication. If the Government in India desires action on a first-class question of foreign policy, they must attempt to persuade His Majesty's Government; if, in spite of the full opportunity which they enjoy for making representations, the policy of His Majesty's Government cannot be adjusted to meet their views, India cannot utilize her international status to take an independent line of action. In regard to controversial inter-Imperial questions the conditions are slightly different, but the result is the same<sup>2</sup>. . . .

Though India, unlike the Self-governing Dominions, does not formally enjoy an independent position in the sphere of foreign policy, she is possibly more continuously and practically concerned with foreign policy than any of them. For this her vast land frontier, and, to a much less extent, the existence of French and Portuguese possessions within the Indian Sub-Continent, are immediately responsible. It is true that she is not entitled to accredit Ministers to Foreign States. Yet His Majesty's Minister at Kabul was appointed from the Indian Political Department; so was the British Envoy at the Court of Katmandu and also the officer in charge of His Majesty's relations with Tibet; and India supplies consular officers in Afghanistan, Persia, Arabia, and Kashgar. With His Majesty's Government's relations in all these areas the Indian Foreign Office is intimately concerned and advises His Majesty's Government on them continuously. And His Majesty's Govern-

<sup>1</sup> Ibid., para. 18.

<sup>2</sup> Ibid., p. 1642, para. 20.



ment's policy in them is framed in close and constant consultation with the Government of India.<sup>1</sup>

*Communication of Government of India with outside Authorities*

Before 1919 the Government in India were not permitted, with certain exceptions, to communicate with authorities elsewhere otherwise than through the India Office. They now have greater latitude, but the Secretary of State is still, generally speaking, the prescribed channel for correspondence on important issues of policy and for communications addressed to the League of Nations and the International Labour Office, except those on routine matters or relating to the supply of information. Communications regarding signature of, or accession to, or ratification of, international instruments are not made direct by the Government in India to the international authority.<sup>2</sup>

India enjoys the privilege of direct negotiation and correspondence with the Governments of the self-governing Dominions, subject to certain limitations, and representation in other parts of the Empire by means of Agents and Trade Commissioners.

*External Affairs and the New Constitution*

With regard to the conduct of external affairs under the new Constitution, the following proposals are put forward by His Majesty's Government in their White Paper issued on 15th March, 1933:

The executive power and authority of the Federation will be vested in the King and will be exercised by the Governor-General as his representative, aided and advised by a Council of Ministers responsible to a Legislature containing representatives both of British India and of the States. . . . [But] the transfer of responsibility at the centre [i.e. to the Council of Ministers] will not be co-extensive with the Federal Government's activities. Certain departments, namely, those concerned with Defence, External Affairs, and Ecclesiastical Administration, are to be entrusted to the Governor-General personally, and these matters he will control in responsibility to His Majesty's Government and Parliament<sup>3</sup>. . . .

<sup>1</sup> Ibid., p. 1334, para. 4.

<sup>2</sup> Ibid., p. 1647, para. 28.

<sup>3</sup> *Cmd.* 4268, p. 9, para. 14.

For the purpose of assisting him in the administration of the Reserved Departments the Governor-General will be empowered to appoint at his discretion not more than three Counsellors, whose salaries and conditions of service will be prescribed by His Majesty in Council. The Governor-General will not be restricted in any way in his choice of those Counsellors; the sole consideration will be to select the individual best suited, in the Governor-General's opinion, for the office, wherever he may be found. The Counsellors will be *ex-officio* members of both Chambers of the Legislature, though without the right to vote.<sup>1</sup>

Although the Reserved Departments will be administered by the Governor-General on his sole responsibility it would be impossible in practice for the Governor-General to conduct the affairs of these Departments in isolation from the other activities of his Government, and undesirable that he should attempt to do so, even if it were in fact possible. A prudent Governor-General would therefore keep his Ministers and the advisers whom he has selected to assist him in the Reserved Departments in the closest contact; and, without blurring the line which will necessarily divide on the one hand his personal responsibility for the Reserved Departments, and, on the other hand, the responsibility of Ministers to the Legislature for the matters entrusted to their charge, he would so arrange the conduct of executive business that he himself, his Counsellors, and his responsible Ministers are given the fullest opportunity of mutual consultation and discussion of all matters—and there will necessarily be many such—which call for co-ordination of policy. His Majesty's Government intend to secure the embodiment of this principle in appropriate terms in the Governor-General's Instrument of Instructions. . . . At the same time it will make it clear, without ambiguity, that whatever consultation between the Governor-General and his responsible Ministers may take place upon matters arising in the Reserved Departments, the responsibility for the decisions taken is the Governor-General's and the Governor-General's alone.<sup>2</sup>

It is also proposed that the Constitution Act shall lay down that 'for certain clearly indicated general purposes' the Governor-General has a 'special responsibility' and it shall confer on him, for securing these purposes, special powers which shall be exercised in accordance with directions to be set out in his Instrument of Instructions, to the

<sup>1</sup> Ibid., p. 10, para. 15.

<sup>2</sup> Ibid., p. 12, para. 23.

effect that he shall be guided by the advice of his Ministers, unless 'so to be guided would, in his judgment, be inconsistent with such "special responsibility"'.<sup>1</sup>

Amongst those purposes for which it is proposed he should have 'special responsibility' are:

- i. The prevention of grave menace to the peace or tranquillity of India or of any part thereof;
- ii. the safeguarding of the financial stability and credit of the Federation;
- iii. the safeguarding of the legitimate interests of minorities;
- iv. the securing to the members of the Public Services of any rights provided for them by the Constitution and the safeguarding of their legitimate interests;
- v. the protection of the rights of any Indian State;
- vi. the prevention of commercial discrimination;
- vii. any matter which affects the administration of the Reserved Departments.<sup>1</sup>

With regard to item (vii) it is apparent that if, for example, the Governor-General were to be free to follow his own judgement in relation to Defence policy only in regard to matters falling strictly within the ambit of the department of Defence, he might find that proposals made in another department in charge of a responsible Minister are in direct conflict with the line of policy he regards as essential for purposes connected with Defence, and consequently that the discharge of his responsibilities for Defence would be gravely impaired if he accepted the advice of the Minister responsible for the charge of the other department in question. If, therefore, such a situation is to be avoided, it is impossible to secure the object in view otherwise than by expressing the Governor-General's 'special responsibility' in some such terms as those indicated in item (vii).<sup>2</sup>

The object of the Governor-General's special responsibility for 'the safe-guarding of the financial stability and credit of the Federation' is to confer on him powers to step in, if the need should arise, in the event of the policy of his Ministers in respect, for example, of budgeting or borrowing being such as to be likely in the Governor-General's opinion to endanger seriously the provision of resources to meet the requirements of his Reserved Departments or any of the obligations of the Federation, whether directly or indirectly by prejudicing India's credit in the money markets of the world.<sup>3</sup>

<sup>1</sup> Ibid., p. 14, para. 25.

<sup>2</sup> Ibid., p. 15, para. 27.

<sup>3</sup> Ibid., p. 16, para. 31.

Thus,

if, in discharge of his responsibility for a Reserved Department, or of a special responsibility, the Governor-General decides that a legislative measure or a vote of supply to which the legislature has not assented is essential, his special powers will enable him to secure the enactment of the measure or the provision of the supply in question, but Ministers will not have any constitutional responsibility for his decision.<sup>1</sup>

Provision is made for the relations between the Governor-General and the Secretary of State:

In so far as the Governor-General or a Governor is not advised by Ministers, the general requirements of constitutional theory necessitate that he should be responsible to His Majesty's Government and Parliament for any action he may take and that the Constitution should make this position clear.<sup>2</sup>

### *The Indian States*

With respect to the external relations of the Indian States, the Simon Commission reported that such relations were entirely in the hands of the Crown. For international purposes, therefore, the territory of Indian States is in the same position as the territory of British India, and their subjects are in the same position as British subjects. An Indian State cannot hold diplomatic or other official intercourse with any foreign power.<sup>3</sup>

### OFFICE OF THE HIGH COMMISSIONER FOR INDIA IN THE UNITED KINGDOM

Section 35 of the Government of India Act, 1919, gave power to His Majesty to make by Order in Council provision for the appointment of a High Commissioner for India in the United Kingdom, and such an Order in Council was duly issued on the 13th August, 1920. The Order in Council authorized the Governor-General of India in Council with the approval of the Secretary of State in Council to appoint from time to time some person to be High Commissioner for India.

High Commissioners to date have been Sir William S. Meyer (1920-2), Sir Dadiba M. Dalal, C.I.E. (1922-4),

<sup>1</sup> Ibid., p. 22, para. 42.

<sup>2</sup> Ibid., p. 22, para. 43.

<sup>3</sup> *Indian Statutory Commission*, vol. i, p. 87, para. 105.

and Sir Atul Chandra Chatterjee, G.C.I.E., K.C.S.I. (1925-31). The present High Commissioner is Sir Bhupendra Nath Mitra, K.C.S.I., K.C.I.E., C.B.E., who was Acting High Commissioner from 6th November to 10th December, 1924, and who succeeded to the office on 1st July, 1931.

The office of the High Commissioner was opened in two dwelling-houses in Grosvenor Gardens; later a third house, and later still, part of a fourth house were occupied. These offices were neither convenient nor dignified, and eventually Sir Atul Chatterjee suggested to the Government of India the erection of a specially designed building. In 1927 it was decided to apply for an Aldwych site from the London County Council; in 1928 building began to the designs of Sir Herbert Baker, R.A., and in 1930 India House was occupied and formally opened by His Majesty the King Emperor on the 8th July.

The India Store Department, which constitutes part of the High Commissioner's establishment, is housed in a separate river-side building at Belvedere Road, S.E. 1.

The High Commissioner is the direct representative of, and is subordinate to, the Government of India. For administrative purposes his office is under the Commerce Department of the Government of India, but he is authorized to correspond direct with any Department of the Government of India or Provincial Government on matters pertaining to it, e.g. he addresses the Department of Education, Health, and Lands on matters concerning Indian students, the Department of Industries and Labour on general matters touching stores, &c.

#### *Organization*

The chief officers under the High Commissioner are:

The Deputy High Commissioner, who co-ordinates all the activities of the High Commissioner's office, and performs all the functions of the High Commissioner if the High Commissioner is away from office.

The Indian Trade Commissioner, in charge of the Trade Department.

The Director-General, in charge of the India Store



Department (sub-departmental heads—Director of Purchase, Director of Inspection).

The Chief Accounting Officer, in charge of the Accounts Department.

A Secretary in charge of the Education Department.

A Secretary in charge of the Public Department.

A Secretary in charge of the General Department.

- i. The primary duty of the Indian Trade Commissioner is to forward the interests of Indian producers in the markets of the West, to collect and distribute trade information, and to advise the High Commissioner on all trade questions.
- ii. The duty of the Director-General, India Store Department, is to purchase from the trade, or obtain from departments of His Majesty's Government, stores of all sorts required by the Central or Provincial Governments of India, and where necessary, to inspect and ship them.
- iii. The Chief Accounting Officer's duty is to maintain the High Commissioner's accounts, to act as paymaster for all his expenditure, to render separate accounts to the Central and Provincial Governments, to obtain necessary budget grants, &c.
- iv. The duty of the Education Secretary is to furnish Indians with information regarding educational facilities of all sorts in this country, to obtain admission for them to educational institutions, to assist them to obtain professional and technological training, to supervise State Scholars and others who may be placed under the High Commissioner's guardianship, and generally to assist Indian students.
- v. The Public Secretary's duty is to control the India House Library, and the sale of official Indian publications, to supply information regarding India, other than trade information, to the public, and to assist the High Commissioner when representing India on international or inter-Imperial conferences and bodies.
- vi. The General Secretary's duty is to arrange for the recruitment of staff for Government and public bodies in India, to supervise Government officials on study leave, to obtain facilities for such officers and other accredited persons, official and non-official, to protect the interests, and, where necessary, to repatriate distressed Indian seamen, to assist other Indian nationals so far as feasible and proper, and to perform other miscellaneous duties.

*Functions*

The Order in Council lays down that the High Commissioner shall (*a*) act as agent of the Governor-General in Council in the United Kingdom; (*b*) act similarly on behalf of the Provincial Governments in India, subject to the orders of the Governor-General, and (*c*) conduct any business relating to the Government of India hitherto conducted in the office of the Secretary of State which may be assigned to him by the Secretary of State. The scope of the High Commissioner's ordinary work can be gathered from the above summary of the duties performed by each of his six departments. But the accommodation of official activities was only one part of the object in erecting India House; an almost greater purpose was to provide a focus of Indian life.

The High Commissioner has taken over from the India Office such part of Indian official work as is of an agency character, and politics do not fall within his sphere. Under the existing Indian Constitution the Governor-General of India in Council is subject to the superintendence, direction, and control of His Majesty's Secretary of State for India. Consequently, communications on questions of policy as between the Home and Indian Governments are addressed to the India Office by the Government of India direct and not by the High Commissioner on the instructions of the Government of India. It follows that India's inter-Imperial and foreign relations are matters pertaining to the India Office, and that the India Office provides the Government of India's channel of communication with inter-Imperial or international bodies such as the Imperial Conference or the League of Nations.<sup>1</sup> The High Commissioner, however, may be, and frequently is, appointed to represent the Government of India on such conferences and bodies. A departure from the ordinary procedure was made in the case of the Indian Delegation to the Ottawa Conference which was based on India House and communicated with the Government of India through the High Commissioner.

<sup>1</sup> See p. 160, below.

## AGENT-GENERAL FOR THE GOVERNMENT OF INDIA IN THE UNION OF SOUTH AFRICA

This office was established in 1927 as a result of a Conference at Capetown between representatives of the Union and the Indian Governments, which met to consider the whole position of Indians in the Union. The Conference attained a measure of agreement which included, among others, the following points:

1. Both Governments reaffirm their recognition of the right of South Africa to use all just and legitimate means for the maintenance of Western standards of life.
2. The Union Government recognizes that Indians in the Union, who are prepared to conform to Western standards of life, should be enabled to do so.
3. For those Indians in the Union who may desire to avail themselves of it, the Union Government will organize a scheme of assisted emigration to India and other countries where Western standards are not required. . . .
4. The Government of India recognizes its obligation to look after such emigrants on their arrival in India.
5. The two Governments have agreed to watch the working of the agreement now reached and to exchange views from time to time as to any changes that experience may suggest.
6. The Government of the Union of South Africa have requested the Government of India to appoint an Agent in the Union in order to secure continuous and effective co-operation between the two Governments.<sup>1</sup>

The Right Hon. Srinivasa Sastri was thereafter appointed as the first Agent-General for the Government of India in the Union, and was followed in 1929 by Sir Venkata Reddi, who retired in 1932 giving place to Mr. (now Sir) Maharaj Singh. The latter has recently resigned, his resignation to take effect in January, 1935.

In accordance with clause 5, above, a further Conference between the two Governments was held early in 1932 to consider the working of the agreement and to exchange views as to any modifications that experience might suggest. At this Conference both Governments agreed that

<sup>1</sup> *Official Year Book of the Union of South Africa*, 1931-2, pp. 830-1.

the Capetown agreement had been a powerful influence in fostering friendly relations between them. It was recognized, moreover, that the possibilities of assisted emigration to India were now practically exhausted and, as a consequence, the possibilities of land settlement outside India were further considered. The Government of India agreed to co-operate with the Government of the Union in exploring the possibilities of a scheme for settling Indians, both from India and from South Africa, in other countries. The Agent-General exists therefore to facilitate this co-operation and to protect, as far as possible, the interests of Indians resident in the Union. His head-quarters are at Durban.

#### 4. DIPLOMATIC REPRESENTATION

##### A. The Diplomatic Representation of the British Commonwealth

The normal channel of communication between the Dominion Governments and foreign governments is through the Diplomatic Service of the United Kingdom; and the Balfour Committee reported that, in cases other than those where Dominion Ministers were accredited to the Heads of foreign States, it was agreed to be very desirable that the existing diplomatic channels should continue to be used, as between Dominion Governments and foreign governments in matters of general and political concern.

While the [1930] Conference did not wish to suggest any variation in this practice, they felt that it was of great importance to secure that the machinery of diplomatic communication should be of a sufficiently elastic and flexible character. They appreciated that cases might arise in which, for reasons of urgency, one of His Majesty's Governments in the Dominions might consider it desirable to communicate direct with one of His Majesty's Ambassadors or Ministers appointed on the advice of His Majesty's Government in the United Kingdom on a matter falling within the category mentioned. In such cases they recommended that the procedure just described should be followed. It would be understood that the communication sent to the Ambassador or Minister would indicate

to him that, if practicable, he should, before taking any action, await a telegram from His Majesty's Government in the United Kingdom, with whom the Dominion Government concerned would simultaneously communicate.

As regards subjects not falling within the category of matters of general and political concern, the Conference felt that it would be to the general advantage if communications passed direct between His Majesty's Government in the Dominions and the Ambassador or Minister concerned. It was thought that it would be of practical convenience to define, as far as possible, the matters falling within this arrangement; the definition would include such matters as, for example, the negotiation of commercial arrangements affecting exclusively a Dominion Government and a foreign Power, complimentary messages, invitations to non-political conferences, and requests for information of a technical or scientific character. If it appeared hereafter that the definition were not sufficiently exhaustive it could of course be added to at any time. . . .

The Conference were informed that His Majesty's Government in the United Kingdom were willing to issue the necessary instructions to the Ambassadors and Ministers concerned to proceed in accordance with the above recommendations.<sup>1</sup>

The effect of this arrangement is that when representations to a foreign government are made by a British Minister or Ambassador on behalf of any part of the Commonwealth, they have the prestige of the whole Commonwealth behind them.

## B. Separate Representation of the Dominions

As early as 1892 leaders of both political parties in Canada were convinced that separate diplomatic representation for Canada at Washington was desirable, and it was their feeling that this representation should be, in some degree at least, independent of, though co-operating with, British diplomacy.<sup>2</sup> About 1898 Sir Wilfred Laurier, then Prime Minister of Canada, 'intended to appoint a gentleman of very marked ability and of high standing as Commissioner at Washington, having the same status as (the) Canadian Commissioner in London', but for some

<sup>1</sup> *Cmd.* 3717, section (i), pp. 29-30.

<sup>2</sup> *House of Commons Debates* (Canada), 1892, cols. 1950-79, 2463-82.



reason the appointment was not made.<sup>1</sup> In 1917 Sir Robert Borden took the matter up again with the Government of the United Kingdom, 'but on account of war conditions and by reason of the enormous pressure of business affairs between the two countries, the conclusion was then reached that the purpose for the time being during the War would be better served by the appointment of a Canadian War Mission'.<sup>2</sup> The War Mission was appointed, but when it had almost completed its work conversations on the subject of permanent Canadian representation at Washington were once again entered upon between Sir Robert Borden, Mr. Lloyd George, Mr. Balfour, and representatives of other Dominions, notably the Prime Minister of Australia, and, on 10th May, 1920, the following announcement was made simultaneously in the Parliaments of the United Kingdom and Canada by Mr. Bonar Law and Sir George Foster:<sup>3</sup>

As a result of recent discussions an arrangement has been concluded between the British and Canadian Governments to provide more complete representation at Washington of Canadian interests than has hitherto existed. Accordingly, it has been agreed that His Majesty, on advice of his Canadian Ministers, shall appoint a Minister Plenipotentiary who will have charge of Canadian affairs and will at all times be the ordinary channel of communication with the United States Government in matters of purely Canadian concern, acting upon instructions from and reporting direct to the Canadian Government. In the absence of the Ambassador the Canadian Minister will take charge of the whole Embassy and of the representation of Imperial as well as Canadian interests. He will be accredited by His Majesty to the President with the necessary powers for the purpose. This new arrangement will not denote any departure either on the part of the British Government or of the Canadian Government from the principle of the diplomatic unity of the British Empire.

The need for this important step has been fully realized by both Governments for some time. For a good many years there has been direct communication between Washington and Ottawa, but the

<sup>1</sup> *House of Commons Debates* (Canada), 1919, pp. 10-74, 2076 (Mr. Lemieux).

<sup>2</sup> *Ibid.*, 1920, pp. 2451-3 (Sir R. Borden).    <sup>3</sup> *Ibid.*, 1920, p. 2178.

constantly increasing importance of Canadian interests in the United States has made it apparent that Canada should be represented there in some distinctive manner, for this would doubtless tend to expedite negotiations, and naturally first-hand acquaintance with Canadian conditions would promote good understanding. In view of the peculiarly close relations that have always existed between the people of Canada and those of the United States, it is confidently expected as well that this new step will have the very desirable result of maintaining and strengthening the friendly relations and co-operation between the British Empire and the United States.

In view of the fact that the appointment of an additional representative of His Majesty in Washington, especially charged with the conduct of the affairs of a distinct portion of the Empire, was a new departure in diplomatic practice, it was deemed desirable, both by the British and Canadian Governments, that the matter should be informally discussed with the Department of State of the United States. After the understanding was arrived at that such a Minister should be appointed, but before the form of the announcement was settled, a member of the Canadian Government and the *Chargé d'Affaires* of the British Embassy at Washington took the matter up with the Acting Secretary of State of the United States; after a full explanation of the proposal, they were assured by the Acting Secretary of State that a Canadian Minister to Washington would be most cordially welcomed.

It is noteworthy that this understanding which had been arrived at between the Governments of the United Kingdom and Canada contemplated that the Canadian Minister at Washington should assume the position of the British Ambassador in the latter's absence. Sir Robert Borden's speech in the Canadian House of Commons also made it clear that the offices of the Minister should be located in the British Embassy.<sup>1</sup> However, when the appointment of Mr. Vincent Massey as the first Canadian Minister was about to be made in 1926, Mr. W. L. Mackenzie King, then Prime Minister of Canada, in writing to Sir

<sup>1</sup> *House of Commons Debates* (Canada), 17th May, 1920, pp. 2451-3 (Sir R. Borden).

Austen Chamberlain, Secretary of State for Foreign Affairs, stated:

It is not in contemplation to renew the provision suggested in 1920 whereby the Canadian Minister would be a member of the British Embassy and would, in the absence of the Ambassador, have charge of the Embassy and of the representation of Imperial as well as Canadian interests. I should be greatly obliged if you could have steps taken to ascertain as early as may be convenient whether the appointment of Mr. Massey in this capacity would be acceptable to the Government of the United States.<sup>1</sup>

Although the appointment of a Canadian Minister did not take place until 1926, the principle was established, and the Irish Free State first gave effect to it by appointing Professor T. A. Smiddy to Washington in 1924.

In making the appointment of Professor Smiddy, emphasis was laid on two points: first, that the arrangements denoted no departure from the principle of the diplomatic unity of the Empire; and second, that the Minister's credentials gave him authority to take charge of all affairs relating to the Irish Free State.

The Irish Minister would be at all times in the closest touch with His Majesty's Ambassador, and any question which may arise as to whether a matter comes within the category of those handled by the Irish Minister or not would be settled by consultation between them.<sup>2</sup>

In matters falling within his sphere the Irish Minister would not be subject to the control of His Majesty's Ambassador, nor would His Majesty's Ambassador be responsible for the Irish Minister's action.

There has in practice been no difficulty in determining whether or not a matter comes within the category of those handled by a Dominion Minister. The decision is made when necessary by consultation between the heads of the two missions, though ordinarily the secretariats can allocate the subjects. In the majority of cases even this does not happen because the business arises in the mission where it belongs. A Dominion Minister is not authorized to take charge of matters which concern other Members of the

<sup>1</sup> Unpublished dispatch.

<sup>2</sup> *Cmd. 2202*, p. 2.

Commonwealth even though, in particular instances, their interest may be involved.<sup>1</sup>

The Balfour Committee 'felt that most fruitful results could be anticipated from the co-operation of His Majesty's representatives in the United States of America, already initiated, and now further to be developed'. The Imperial Conference of 1930 felt that 'such appointments furnish a most valuable opportunity for the interchange of information, not only between the representatives themselves but also between the respective Governments'. This co-operation envisaged by the Balfour Committee has in fact been carried out. Occasionally the Dominion representatives in Washington hold informal conversations on matters of common concern which do not, however, interest the British Ambassador, but such cases are of infrequent occurrence.

In certain rare cases the co-operation between the Canadian Minister and the British Ambassador has assumed the form of joint representation to the Department of State, though the ordinary form of co-operation is mutual consultation. To facilitate this consultation notes and dispatches of mutual interest are automatically exchanged between the missions, and the Ambassador and the Minister give each other free access to their respective files. A notable example of co-operation between the British Ambassador and the Canadian Minister was the conduct of the *I'm Alone* case in 1929, this co-operation taking place by means of informal conversations. The matter was handled, however, and settled, as far as the actual diplomatic negotiations were concerned, by the Canadian Legation without participation by the British Embassy, although the incident involved a most important treaty between Great Britain and the United States.<sup>2</sup>

<sup>1</sup> It is to be noted, too, that the British consuls are in no way under the control of such Dominion Ministers; and the citizens of the Dominions enjoy their aid and protection in capitals where Dominion Ministers are stationed as well as in capitals where they are not.

<sup>2</sup> Convention between the United Kingdom and the United States of America respecting the regulation of the Liquor Traffic, 1924.

*Cost of Separate Representation*

The cost of separate representation is a large consideration, and the attitude towards it was summed up by General Smuts speaking in the House of Assembly of the Union of South Africa on 10th April, 1930. 'Nothing could be worse', he said, 'than to send men to foreign capitals to live in a small and mean way. The comparison . . . with other countries would be so odious and so against the interests of South Africa that it would be far better to send no representatives at all.'<sup>1</sup>

*List of Dominion Representatives Abroad*

The following is a list of Dominion diplomatic representatives in foreign capitals in April, 1934:

## CANADA

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Envoy Extraordinary and Minister Plenipotentiary to France (Paris).

Envoy Extraordinary and Minister Plenipotentiary to Japan (Tokyo).

Canadian Advisory Officer, League of Nations, Geneva.

SOUTH AFRICA<sup>2</sup>

Envoy Extraordinary and Minister Plenipotentiary to the Netherlands (The Hague).

Envoy Extraordinary and Minister Plenipotentiary to Italy (Rome).

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Accredited Representative to the League of Nations, Geneva.

Consul-General at Lourenço Marques.

<sup>1</sup> *Journal of Parliaments of the Empire*, vol. xi, No. 4, Oct. 1930, p. 1034.

<sup>2</sup> The present Minister to The Hague will shortly be accredited also to Brussels. It is the intention of the Union in the near future to appoint a Minister to Paris, to be accredited also to Lisbon; and to Berlin, to be accredited also to Stockholm.



## IRISH FREE STATE

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Envoy Extraordinary and Minister Plenipotentiary to the Holy See.

Envoy Extraordinary and Minister Plenipotentiary to France and to Belgium (Paris).

Envoy Extraordinary and Minister Plenipotentiary to Germany (Berlin).

Permanent Delegate accredited to the League of Nations, Geneva.

**C. Representation of Foreign Countries**

The States concerned have reciprocated, so that there are the following Ministers accredited to the Dominions:

## ITALY

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Capetown).

## NETHERLANDS

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Pretoria).

## HOLY SEE

Nuncio Apostolic to the Irish Free State.

## JAPAN

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

## UNITED STATES OF AMERICA

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Pretoria).

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

## FRANCE

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

#### GERMANY

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

Consul-General and Chargé d'Affaires in the Union of South Africa (Pretoria).

### 5. REPRESENTATION AT GENEVA

#### THE ASSEMBLY OF THE LEAGUE OF NATIONS

Each of the Dominions and India has its separate delegation to the Assembly of the League of Nations at Geneva, and the United Kingdom is represented by the British Empire delegation. Each delegation has a maximum of three members, the personnel of which varies from time to time. Formerly, though not in recent years, certain Dominions occasionally nominated persons from the United Kingdom to represent them.

#### THE COUNCIL

The British Empire has a permanent seat on the Council of the League, and its representative, who since the end of 1924 has almost invariably been the Secretary of State for Foreign Affairs, is, in practice, the representative of the United Kingdom and those portions of the Empire which are not separate Members of the League. It is also incumbent upon him, although he is not the representative of the Dominions, to bear their interests in mind and to consult fully with them before agreeing to any course of action affecting those interests.

The Dominions are entitled to temporary seats on the Council. Canada was the first to obtain a seat, holding it from 1927 to 1930. She was generally represented by Senator Dandurand, though in 1928 she was represented by the then Prime Minister, the Right Hon. W. L. Mackenzie King. In 1930, the Irish Free State was elected, and was generally represented either by the Minister for External Affairs, or by the Permanent Delegate. Upon

the retirement of the Irish Free State in 1933 the Commonwealth of Australia was elected, and is represented by the High Commissioner.

If a Dominion is not represented on the Council, it shares the right of other Members of the League to send a representative to take part in meetings of the Council at which matters specially affecting its interests are under consideration.

#### PERMANENT DOMINION REPRESENTATIVES AT GENEVA

Three of the Dominion Governments have permanent representatives in Geneva. These are:

CANADA. Canadian Advisory Officer, League of Nations (office established 1924).

SOUTH AFRICA. Accredited Representative to the League of Nations (office established 1929).

IRISH FREE STATE. Permanent Delegate accredited to the League of Nations (office established 1923).

These appointments have been made in order to minimize the disadvantages of distance from Geneva. Although all the Dominions are closely concerned in League activities, Canada, South Africa, and the Irish Free State have been particularly involved. Canada has been occupied not only as an ordinary Member of the League and as a Member of Council (1927-30), but also as a Member of the Governing Body of the International Labour Office. The Irish Free State has been closely interested both for general political reasons and as a Member for the Council for 1930-3. South Africa is mainly concerned from her position as Mandatory Power for South-West Africa.

The duties of these representatives are illustrated in the terms of appointment of the Canadian officer, which are 'to establish and maintain as close relations as possible with the Secretariat of the League of Nations and the International Labour Office', to 'communicate with the Government of Canada as to all matters arising and requiring its attention', and 'to act in all such matters in an advisory capacity to the Government of Canada and to delegates

from the Government of Canada to conferences arising out of the organizations before-named'.<sup>1</sup>

## 6. PRINCIPLES OF IMPERIAL DEFENCE

The question of Defence has been discussed at each of the Colonial and Imperial Conferences, and it is at these Conferences that the basic principles of Imperial Defence have been formulated and modified as circumstances demand.

The Prime Minister of Great Britain in his statement on defence made to the Imperial Conference of 1926<sup>2</sup> referred to the Resolutions adopted at the Imperial Conference of 1923 as being 'the very bedrock of our defence policy'. They may be stated as follows:

1. The Conference affirms that it is necessary to provide for the adequate defence of the territories and trade of the several countries composing the British Empire.
2. In this connexion the Conference expressly recognizes that it is for the Parliaments of the several parts of the Empire, upon the recommendations of their respective Governments, to decide the nature and extent of any action which should be taken by them.
3. Subject to this provision, the Conference suggests the following as guiding principles:
  - a. The primary responsibility of each portion of the Empire represented at the Conference for its own local defence.
  - b. Adequate provision for safeguarding the maritime communications of the several parts of the Empire and the routes and waterways along and through which their armed forces and trade pass.
  - c. The provision of Naval bases and facilities for repair and fuel so as to ensure the mobility of the fleets.
  - d. The desirability of the maintenance of a minimum standard of Naval Strength, namely, equality with the Naval Strength of any foreign Power, in accordance with the provisions of the Washington Treaty on Limitation of Armaments as approved by Great Britain, all the Self-governing Dominions and India.
  - e. The desirability of the development of the Air Forces in the several countries of the Empire upon such lines as will make

<sup>1</sup> *Canada Year Book*, 1932, p. 88.

<sup>2</sup> *Cmd.* 2769, p. 159.

it possible, by means of the adoption, as far as practicable, of a common system of organization and training, and the use of uniform manuals, patterns of arms, equipment, and stores (with the exception of the type of aircraft), for each part of the Empire as it may determine to co-operate with other parts with the least possible delay and the greatest efficiency.

4. In the application of these principles to the several parts of the Empire concerned the Conference takes note of:

- a. The deep interest of the Commonwealth of Australia, the Dominion of New Zealand, and India, in the provision of a Naval Base at Singapore, as essential for ensuring the mobility necessary to provide for the security of the territories and trade of the Empire in Eastern Waters.
- b. The necessity for the maintenance of safe passage along the great route to the East through the Mediterranean and the Red Sea.
- c. The necessity for the maintenance by Great Britain of a Home Defence Air Force of sufficient strength to give adequate protection against air attack by the strongest air force within striking distance of her shores.

5. The Conference, while deeply concerned for the paramount importance of providing for the safety and integrity of all parts of the Empire, earnestly desires, so far as is consistent with this consideration, the further limitation of armaments, and trusts that no opportunity may be lost to promote this object.<sup>1</sup>

These Resolutions make reference to the desirability of developing uniformity of organization, training, &c., only in the Air Forces, but it is now a generally accepted principle that such uniformity is desirable in every branch of the forces of the Commonwealth.

The Imperial Conference can only concern itself with the broad outlines of policy in defence matters; the business of working out the details is undertaken by the Overseas Defence Sub-Committee (O.D.C.) of the Committee of Imperial Defence. This Committee may further make recommendations to the Governments for the modification, from time to time, of the principles adopted by the Imperial Conference.

<sup>1</sup> *Cmd.* 1987, pp. 16-17.



## 7. DEFENCE POLICY AND ARRANGEMENTS OF INDIVIDUAL DOMINIONS

A brief account is given below of the principles which govern the defence policy of each Dominion and the arrangements through which that policy is carried out.

### CANADA

A fundamental assumption in the present defence policy of Canada is that war with the United States is a contingency so remote that special preparation to that end is deemed to be unnecessary.

Another assumption is that on account of geographical considerations Canada will not be requested by the Council of the League to send armed forces to Europe to assist in the application of sanctions against a Covenant-breaking State. However, should the United Kingdom become involved in a European war, it is obvious that a section of public opinion in Canada would demand intervention. Thus the employment of Canadian forces in Europe is a possibility that cannot be ignored.

### *Defence Policy and Organization*

The main principles of Canadian defence policy were stated at the Imperial Conference of 1926 by Mr. Mackenzie King,<sup>1</sup> then Prime Minister of Canada. These principles have since been discussed in speeches given by the Chief of the General Staff<sup>2</sup> and by the Chief of the Naval Staff.<sup>3</sup>

<sup>1</sup> Imperial Conference, 1926: *Appendices to Proceedings*, Cmd. 2769, pp. 168-70.

<sup>2</sup> 'Canada's Land and Air Defence Forces', an address by Major-General A. G. L. McNaughton, C.M.G., D.S.O., Chief of the General Staff, Canada, to the Empire Club of Canada, in Toronto on 2nd May, 1929. Empire Club of Canada: *Speeches delivered to the Members during the year 1929* (Toronto).

<sup>3</sup> 'Canada and Imperial Defence', an address by Commodore Walter Hose, C.B.E., R.C.N., Chief of the Naval Staff, Canada, delivered under the auspices of the British Empire League at the British Empire Club, London, on 14th Feb., 1929. *British Empire Review*, vol. xxv, No. 1 (March 1929), p. 17.

*a. Land Forces.*

A militia organization for land defence follows naturally from Canada's favourable position. She does not need a standing army to defend her against a sudden attack from the United States, nor to go at a moment's notice to take military action to fulfil her obligations under the Covenant of the League of Nations. Nor does she need it to repel a sudden attack from the east or the west, for no foreign expeditionary force of dangerous strength could be transported to Canadian shores without preliminary arrangements of such magnitude that they could not be kept secret. As Canada may then expect some considerable period of notice of any major danger it seems obvious that she does not need a large force immediately ready but the nucleus of a force around which the entire defence resources of the nation could be developed. Thus Canada for her war organization relies upon her citizen force—the Non-Permanent Active Militia—supplemented to a certain extent from the permanent force as this personnel can be replaced in their instructional duties. The Non-Permanent Active Militia as at present organized in Canada had, during the year ending 31st March, 1932, a peace establishment of 126,653 all ranks; its active strength was 51,287, of which only 36,189 had been trained that year.<sup>1</sup> In general, this training consists of twelve days either at camp or at local headquarters devoted to drill and elementary tactical exercises. In addition to this training which is paid for, a very large number of the militia turn out for drills and courses of instruction without expense to the public.

Mr. Mackenzie King at the Imperial Conference of 1926, in outlining the main principles of Canadian policy on military matters, said, 'the general policy of Canada has been the organization and training of forces on lines similar to those maintained in Great Britain, with necessary changes required by local conditions. . . . Among the steps taken to ensure that the Canadian forces are trained as closely as possible on the same lines as the British may be mentioned the interchange of officers, the attendance of officers at numerous courses in England, including the Staff College, and exchange visits between staff officers.'<sup>2</sup>

A permanent force officer in Canada is required to-day to pass the same examination, set and corrected by the same authorities, as an officer of corresponding rank in the British Army, and also to obtain certain additional qualifications which are necessary to meet

<sup>1</sup> Department of National Defence: *Report for the year ending March 31st, 1932.*

<sup>2</sup> *Cmd. 2769*, pp. 168-9.

special Canadian conditions. The purpose of these common examinations is to set up a common standard of education so that an officer of a definite rank in the forces of one part of the Commonwealth could be employed, either in time of peace or in war, in any appointment of similar rank in the forces of any other portion of the Commonwealth.

*b. Sea Forces.*

The primary consideration of Canada in framing its policy of naval defence is the protection of the focal points in the vicinity of Canadian waters at which Canadian shipping becomes congested. It is well recognized that operations against Canadian trade in these limited areas would have a vital effect on Canadian industry. At the same time Canada is peculiarly well situated geographically and strategically since these vulnerable focal points lie six thousand miles on one side and three thousand miles on the other from any possible overseas adversary. In any maritime conflict menacing the Commonwealth it is difficult to conceive of any major forces of possible enemies being detailed to attack Canadian trade at these vulnerable points. Minor forces, however, might well be available for such an important objective if no defences were maintained to oppose them. Therefore, as Mr. Mackenzie King has said, 'the policy on which the naval activities of the Dominion are based at present is one of developing the local defence of the waters in the vicinity of Canadian coasts and the approaches to our ports'.

Canadian defence circles do not regard this concentration on local defence to the exclusion of a share in the general naval defence of the Commonwealth as a selfish policy. They feel that Canada has contributed a great deal to the strength of the Commonwealth in other ways, notably by the construction of transcontinental railroads.

Mr. Mackenzie King in his speech at the Imperial Conference of 1926 touched on some further aspects of Canadian policy on naval defence. He said: 'It is considered that any Naval programme should, as far as possible, be one which will admit of the personnel being for the most part, if not entirely, Canadian. There is also in effect a system of co-operation in staff work and an arrangement of periodical service with the Royal Navy by officers and men of the Royal Canadian Navy, in order that they may be trained to carry out their duties in all respects on similar lines. In conformity with the above policy it may be stated that, in the last five and a half years, the personnel of the permanent Canadian Navy has been

transformed from 450 officers and men borrowed or specially engaged from Great Britain, and 50 Canadians, to 40 borrowed ranks and ratings and 460 Canadians.<sup>1</sup>

*c. Air Forces.*

The policy of Canada in respect of her air forces has been based on the belief that an air force is to-day an absolutely essential arm of a defence organization and that it is therefore necessary for Canada to have a small staff skilled in the art of design and operation of aircraft. It is contended that if this staff were confined to purely military work there would not be sufficient scope for its activities to permit the retention of able and enthusiastic men; that, if the civil and military aviation activities of the Dominion Government were separated there would be a needless and expensive duplication of organization and that, because of the climate, most of the civil operations with the exception of air transport would have to be done in the summer, while the experience of 1917-18 showed that military air training could be carried out in the winter. These considerations accounted for the decision of the Government in 1923 to place all its aviation activities under the Department of National Defence. At present and apart from such matters as the technical air training of pilots, the work of the Royal Canadian Air Force in summer is almost exclusively devoted to civil operations—aeroplane photography in connexion with the preparation of maps by the Department of the Interior and by the geographical section of the Department of Defence; fishery protection; a study of the spread of pine blister and wheat rust, and many other activities which are of constructive benefit to the community.

As Mr. Mackenzie King pointed out in 1926, such duties constitute a most valuable practical training for the personnel employed on them. 'Civil aviation', he said, 'has a direct relation to the creation of a military air force, and serves to create a reserve thereto. By the air force regulations an individual who obtains a pilot's certificate automatically becomes a reservist.'<sup>2</sup>

*Administration*

DEPARTMENT OF NATIONAL DEFENCE

Prior to 1922 there were three government departments concerned with national defence; but the National Defence Act, 1922, created a Department of National Defence,

<sup>1</sup> Ibid., p. 169.

<sup>2</sup> Ibid., p. 170.

consolidating these departments. This Department is under the control of a Minister and Deputy Minister of National Defence.

The Department has the responsibility of administering:

The Militia, active and reserve.

The Royal Canadian Navy.

Aeronautics, both civil and military.

#### THE DEFENCE COUNCIL

This body, constituted by Order in Council in 1923 to advise the Minister, consists of:

The Minister (President),

Deputy Minister (Vice-President),

Chief of the General Staff,

Chief of the Naval Staff,

with the Adjutant-General, the Quartermaster-General, and the Director, Royal Canadian Air Force, as associate members.

#### *National Defence Expenditure<sup>1</sup>*

The total expenditure on Defence in 1931-2 was \$17,700,000; in 1932-3 it was \$13,349,228; and the estimated expenditure for 1933-4 is \$13,600,000.

#### *Control of Canadian Forces in an Empire War*

As a result of war experience and in view of the constitutional development of the Dominions, it may be assumed that, in any future war in which Canadian forces take part with those of Great Britain and the other Dominions, the following principles will apply:

- i. That Canadian personnel will be reserved for Canadian units and services, but that individuals may be loaned to the forces of other portions of the Commonwealth if required.
- ii. That Canadian forces will be, as far as practicable, administratively self-contained with a direct channel of responsibility to the Canadian Government.
- iii. That tactically the Canadian Commander will probably be under the orders of the Commander-in-Chief, but he will

<sup>1</sup> Department of National Defence Reports, 1932 and 1933.



not be free from responsibility to the Canadian Government for the safety of his command.

- iv. That initially and in order to facilitate transportation and deployment the British war establishments will be accepted without change, but that Canada will hold herself free to modify these establishments in the light of experience and of her own special conditions.

# AUSTRALIA

## *Defence Policy*

The principles of the Commonwealth policy were reviewed by Mr. Bruce at the Imperial Conference of 1926 when he made a long statement, some points of which can be summarized as follows:

1. Australia accepts the principle that the primary responsibility of each Dominion is to provide for its own local defence;
2. is in agreement with the maintenance of the one-power standard, and the provision of naval bases throughout the world;
3. recognizes the vital necessity of preserving the Suez-Red Sea communication;
4. agrees that the preservation of the Empire trade routes is a matter of common concern to all parts of the Empire, and that equality of status carries with it some responsibility to share the common burden of defence; and, although Great Britain has much greater responsibility than any one, something should be done to ensure that the burden is a little more equally divided, as a set-off against the great advantages the Dominions have received in recent years from their connexion with the Empire;
5. does all it can to achieve uniformity by making provision for training abroad with naval and military units of the Imperial Forces in India and the United Kingdom;
6. and that, in view of these considerations, a scheme for the progressive development of all three Services was launched in 1924.<sup>1</sup>

<sup>1</sup> *Cmd.* 2769, pp. 170-9.